

SECURITIES AND EXCHANGE COMMISSION
 Washington, D.C. 20549
Amendment No. 6 to
FORM S-1
REGISTRATION STATEMENT
 UNDER
THE SECURITIES ACT OF 1933

MSCI Inc.

(Exact Name of Registrant as Specified in Its Charter)

Delaware
 (State or Other Jurisdiction of
 Incorporation or Organization)

2741
 (Primary Standard Industrial
 Classification Code Number)

13-4038723
 (I.R.S. Employer
 Identification Number)

88 Pine Street
New York, NY 10005
(212) 804-3900

(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

FREDERICK W. BOGDAN
General Counsel
MSCI Inc.
88 Pine Street
New York, NY 10005
(212) 804-3990

(Name, Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent For Service)

Copies to:

RICHARD D. TRUESDELL, JR.
Davis Polk & Wardwell
450 Lexington Avenue
New York, New York 10017
(212) 450-4000

LESLIE N. SILVERMAN
SANDRA L. FLOW
Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, NY 10006
(212) 225-2000

Approximate date of commencement of proposed sale to the public: As soon as practicable after the effective date of this Registration Statement.

If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box.

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. _____

If this form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. _____

If this form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. _____

CALCULATION OF REGISTRATION FEE

Title Of Each Class Of Securities To Be Registered	Amount to be Registered (1)	Proposed Maximum Aggregate Offering Price Per Share (2)	Proposed Maximum Aggregate Offering Price (2)	Amount Of Registration Fee (3)
Class A Common Stock, par value \$0.01 per share	16,100,000	\$ 16.00	\$ 257,600,000	\$ 7,908.32

(1) Includes 2,100,000 shares which the underwriters have the right to purchase to cover over-allotments.

(2) Estimated solely for the purpose of computing the amount of the registration fee pursuant to Rule 457(a) under the Securities Act of 1933.

(3) Previously paid.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

EXPLANATORY NOTE

This Amendment No. 6 to the Registration Statement (the "**Registration Statement**") on Form S-1 (Registration No. 333-144975) of MSCI Inc. is being filed solely for the purpose of filing certain exhibits to the Registration Statement and no changes or additions are being made hereby to the preliminary prospectus which forms a part of the Registration Statement or to Items 13, 14, 15 or 17 of Part II of the Registration Statement. Other than the addition of exhibits and corresponding changes to the exhibit index in Section 16(a) of Part II hereof and the signature page, the remainder of the Form S-1 is unchanged. Accordingly, the prospectus that forms a part of the Registration Statement and the financial statements are not reproduced in this Amendment No. 6.

PART II
INFORMATION NOT REQUIRED IN PROSPECTUS

Item 13. Other Expenses of Issuance and Distribution.

	Amount To Be Paid
Registration fee	\$ 7,908.32
FINRA filing fee	26,260
Listing fees	250,000
Transfer agent's fees	50,000
Printing and engraving expenses	500,000
Legal fees and expenses	3,075,000
Accounting fees and expenses	725,000
Miscellaneous	350,000
Total	<u>\$ 4,984,168.32</u>

Each of the amounts set forth above, other than the registration fee and the FINRA filing fee, is an estimate.

Item 14. Indemnification of Directors and Officers.

Section 145 of the Delaware General Corporation Law provides that a corporation may indemnify directors and officers as well as other employees and individuals against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with any threatened, pending or completed actions, suits or proceedings in which such person is made a party by reason of such person being or having been a director, officer, employee or agent to the Registrant. The Delaware General Corporation Law provides that Section 145 is not exclusive of other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of shareholders or disinterested directors or otherwise. Section 6.07 of the Registrant's Amended and Restated By-laws provides for indemnification by the Registrant of its directors, officers and employees to the fullest extent permitted by the Delaware General Corporation Law.

Section 102(b)(7) of the Delaware General Corporation Law permits a corporation to provide in its certificate of incorporation that a director of the corporation shall not be personally liable to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the corporation or its shareholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) for unlawful payments of dividends or unlawful stock repurchases, redemptions or other distributions, or (iv) for any transaction from which the director derived an improper personal benefit. The Registrant's Amended and Restated Certificate of Incorporation provides for such limitation of liability.

The Registrant maintains standard policies of insurance under which coverage is provided (a) to its directors and officers against loss rising from claims made by reason of breach of duty or other wrongful act, and (b) to the Registrant with respect to payments which may be made by the Registrant to such officers and directors pursuant to the above indemnification provision or otherwise as a matter of law.

The proposed form of Underwriting Agreement filed as Exhibit 1.1 to this Registration Statement provide for indemnification of directors and officers of the Registrant by the underwriters against certain liabilities.

Item 15. Recent Sales of Unregistered Securities.

In connection with the contribution of Barra to the Registrant by its principal shareholder in 2004, the Registrant issued 19,323 shares of common stock, which were not registered under the Securities Act in reliance upon Section 4(2) thereof.

Item 16. Exhibits and Financial Statement Schedules.

(a) The following exhibits are filed as part of this Registration Statement:

<u>Exhibit Number</u>	<u>Description</u>
1.1	Form of Underwriting Agreement**
3.1	Form of Amended and Restated Certificate of Incorporation**
3.2	Form of Amended and Restated By-laws**
4.1	Form of Class A Common Stock Certificate**
5.1	Opinion of Davis Polk & Wardwell
10.1	Index License Agreement for Funds, dated as of March 18, 2000, between Morgan Stanley Capital International Inc. and Barclays Global Investors, N.A.†**
10.2	Amendment to Index License Agreement for Funds between Morgan Stanley Capital International and Barclays Global Investors, N.A.†**
10.3	Letter Agreement to Amend MSCI-BGI Fund Index License Agreement, dated as of June 21, 2001, between Morgan Stanley Capital International Inc. and Barclays Global Investors, N.A.†**
10.4	Addendum to the Index License Agreement for Funds, dated as of September 18, 2002, between Morgan Stanley Capital International Inc. and Barclays Global Investors, N.A.†**
10.5	Amendment to the Index License Agreement for Funds, dated as of December 3, 2004 between Morgan Stanley Capital International Inc. and Barclays Global Investors, N.A.†**
10.6	Amendment to the Index License Agreement for Funds, dated as of May 1, 2005 between Morgan Stanley Capital International Inc. and Barclays Global Investors, N.A.†**
10.7	Amendment to the Index License Agreement for Funds, dated as of July 1, 2006, between Morgan Stanley Capital International Inc. and Barclays Global Investors, N.A.†**
10.8	Amendment to the Index License Agreement for Funds, dated as of June 5, 2007, between Morgan Stanley Capital International Inc. and Barclays Global Investors, N.A.†**
10.9	Trademark License Agreement, dated as of March 18, 2002, between Morgan Stanley Dean Witter & Co. and Morgan Stanley Capital International Inc.**
10.10	Form of Intellectual Property Agreement
10.11	Form of Services Agreement**
10.12	Form of Tax Sharing Agreement**
10.13	Form of Shareholder Agreement
10.14	Form of Credit Agreement
10.15	MSCI 2007 Equity Incentive Compensation Plan
10.16	MSCI Independent Directors' Equity Compensation Plan
10.17	Form of MSCI Equity Incentive Compensation Plan 2007 Founders Grant Award Certificate for Stock Units
10.18	Form of MSCI Equity Incentive Compensation Plan 2007 Founders Grant Award Certificate for Stock Units for Named Executive Officers
10.19	Form of MSCI Equity Incentive Compensation Plan 2007 Founders Grant Award Certificate for Stock Options
10.20	Form of MSCI Independent Directors' Equity Compensation Plan 2007 Award Certificate for Stock Units
10.21	Employment Offer Letter, dated as of July 20, 2006, between Michael Neborak and Morgan Stanley Capital International Inc.
10.22	Summary of Relocation and Expatriate Benefits for C.D. Baer Pettit

<u>Exhibit Number</u>	<u>Description</u>
21.1	Subsidiaries of the Registrant**
23.1	Consent of Deloitte & Touche LLP**
23.2	Consent of Davis Polk & Wardwell (included in Exhibit 5.1)
23.3	Consent of Kenneth M. deRegt**
23.4	Consent of James P. Gorman**
23.5	Consent of David H. Sidwell**
24.1	Power of Attorney (included on signature page of initial filing)**

* To be filed by amendment.

** Previously filed.

† Confidential treatment requested.

(b) No financial statement schedules are provided because the information called for is not required or is shown either in the financial statements or the notes thereto.

Item 17. Undertakings

(a) The undersigned registrant hereby undertakes:

1. To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

i. To include any prospectus required by section 10(a)(3) of the Securities Act of 1933;

ii. To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement.

iii. To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

2. That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

3. To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

4. That, for the purpose of determining liability under the Securities Act of 1933 to any purchaser:

i. If the registrant is relying on Rule 430B (§230.430B of this chapter):

A. Each prospectus filed by the registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and

B. Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5), or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii), or (x) for the purpose of providing the information required by section 10(a) of the Securities Act of 1933 shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof. Provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date; or

ii. If the registrant is subject to Rule 430C, each prospectus filed pursuant to Rule 424(b) as part of a registration statement relating to an offering, other than registration statements relying on Rule 430B or other than prospectuses filed in reliance on Rule 430A, shall be deemed to be part of and included in the registration statement as of the date it is first used after effectiveness. Provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such first use, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such date of first use.

5. That, for the purpose of determining liability of the registrant under the Securities Act of 1933 to any purchaser in the initial distribution of the securities: The undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

- i. Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;
- ii. Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;
- iii. The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and
- iv. Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

(b) The undersigned registrant hereby undertakes to provide to the underwriter at the closing specified in the underwriting agreement certificates in such denominations and registered in such names as required by the underwriter to permit prompt delivery to each purchaser.

(c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the provisions referenced in Item 14 of this Registration Statement, or otherwise, the registrant has been advised that in the opinion of the Securities and

Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer, or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered hereunder, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question of whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

(d) The undersigned registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this Registration Statement in reliance upon Rule 430A and contained in a form of prospectus filed by the Registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this Registration Statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus shall be deemed to be a new Registration Statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

EXHIBIT INDEX

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* To be filed by amendment.

** Previously filed.

† Confidential treatment requested.

OPINION OF DAVIS POLK & WARDWELL

November 6, 2007

MSCI Inc.
88 Pine Street
New York, NY 10005

Ladies and Gentlemen:

MSCI Inc., a Delaware corporation (the “**Company**”) is filing with the Securities and Exchange Commission a Registration Statement on Form S-1 (the “**Registration Statement**”) for the purpose of registering under the Securities Act of 1933, as amended (the “**Securities Act**”) 16,100,000 shares of its class A common stock, par value \$0.01 per share (the “**Shares**”), including 2,100,000 Shares subject to the underwriters’ over-allotment option, as described in the Registration Statement.

We, as your counsel, have examined such documents and such matters of fact and law that we have deemed necessary for the purpose of rendering the opinion expressed herein. Based on the foregoing, we advise you that, in our opinion, when the Amended and Restated Bylaws and the Amended and Restated Certificate of Incorporation are filed with the Secretary of State of the State of Delaware, when the price at which the Shares to be sold has been approved by or on behalf of the Board of Directors of the Company and when the Shares have been duly issued and delivered against payment therefor in accordance with the terms of the Underwriting Agreement referred to in the Prospectus which is a part of the Registration Statement, the Shares will be validly issued, fully paid and non-assessable.

We are members of the Bar of the State of New York and the foregoing opinion is limited to the laws of the State of New York and General Corporation Law of the State of Delaware.

We hereby consent to the filing of this opinion as an Exhibit to the Registration Statement and further consent to the reference to our name under the caption “Validity of Class A Common Stock” in the Prospectus which is a part of the Registration Statement. In giving this consent, we do not admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act.

Very truly yours,

/s/ Davis Polk & Wardwell

INTELLECTUAL PROPERTY AGREEMENT

This Intellectual Property Agreement (the “Agreement”), is entered into as of [_____], 2007 (the “Effective Date”), by and between Morgan Stanley & Co. Incorporated, a Delaware corporation (“MS”) and MSCI Inc., a Delaware corporation (“MSCI”). (MS and MSCI individually referred to as a “Party” and collectively as the “Parties”).

1. DEFINITIONS**1.1 Certain Definitions.**

As used in this Agreement:

- (a) “Including” and its derivatives, each whether or not capitalized in this Agreement, means “including but not limited to”.
- (b) “Licensed Materials” means, as applicable, the MS Licensed Materials and the MSCI Licensed Materials.
- (c) “MS Licensed Materials” means collectively, to the extent owned by a member of the MS Provider Group, any hardware settings and configurations, generic software libraries and routines, and generic document templates not separately commercialized by the MS Provider Group (as defined below) and used by MSCI prior to the Trigger Date. For the avoidance of doubt, the MS Licensed Materials does not include (i) any patent, trademark or service mark of the MS Provider Group, or (ii) any infrastructure hardware or software (e.g., monitoring software and systems, customized operating systems (and components such as AFS, DNS, AD, etc.), and middleware). For the avoidance of doubt, the document templates do not include any references to members of the MS Provider Group or its personnel.
- (d) “MSCI Licensed Materials” means collectively, to the extent owned by a member of the MSCI Provider Group, any hardware settings and configurations, generic software libraries and routines, and generic document templates not separately commercialized by the MSCI Provider Group (as defined below) and used by MS prior to the Trigger Date. For the avoidance of doubt, the MSCI Licensed Materials does not include (i) any patent, trademark or service mark of the MSCI Provider Group, (ii) any infrastructure hardware or software (e.g., monitoring software and systems, customized operating systems and middleware), or (iii) any software or data separately licensed to MS by the MSCI Provider Group (such as the Barra Aegis software or the MSCI indices). For the avoidance of doubt, the document templates do not include any references to members of the MSCI Provider Group or its personnel.
- (e) “Trigger Date” means the date upon which Morgan Stanley shall cease to own more than 50% of the issued and outstanding shares of MSCI common stock.

1.2 Other Terms.

Other terms used in this Agreement are defined in the context in which they are used and shall have the meanings there indicated.

2. GRANT OF LICENSE

2.1 MS Grant.

MS hereby grants (subject to any existing third party contractual obligations) to MSCI a non-exclusive, perpetual, irrevocable, world-wide, royalty-free license for MSCI to use, modify, copy, create derivative works of and sublicense, for any business purpose, the MS Licensed Materials.

2.2 MSCI Grant.

MSCI hereby grants (subject to any existing third party contractual obligations) to MS a non-exclusive, perpetual, irrevocable, world-wide, royalty-free license for MS to use, modify, copy, create derivative works of and sublicense, for any business purpose, the MSCI Licensed Materials.

2.3 Internet and Subnet Addresses.

For the avoidance of doubt, this Agreement does not address or affect any rights of the Parties in or to internet or subnet addresses.

3. DELIVERY

3.1 No Support or Maintenance or Obligation to Deliver.

The Parties shall have no obligation to provide support or maintenance for the Licensed Materials, including any obligation to update or correct such Licensed Materials. The Parties shall have no obligation to provide copies of the Licensed Materials (including in the case of software, any source code and object code).

4. NO WARRANTIES

THE LICENSE GRANTS HEREUNDER ARE PROVIDED "AS-IS" WITH NO WARRANTIES, AND THE PARTIES EXPRESSLY EXCLUDE AND DISCLAIM ANY WARRANTIES UNDER OR ARISING AS A RESULT OF THIS AGREEMENT, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT OR ANY OTHER WARRANTY WHATSOEVER.

5. LIMITATIONS OF LIABILITY

- (a) MSCI agrees that neither MS nor its affiliates or subsidiaries (other than MSCI) (collectively, the "MS Provider Group") and the respective directors, officers, agents, and employees of the MS Provider Group shall have any liability, whether direct or indirect, in contract or tort or otherwise, to MSCI for or in connection with this Agreement or the transactions contemplated hereby or any actions or inactions by or on behalf of the MS Provider Group in connection with this Agreement and such transactions.
- (b) MS agrees that neither MSCI nor its subsidiaries (collectively, the "MSCI Provider Group") and the respective directors, officers, agents, and employees of the MSCI Provider Group shall have any liability, whether direct or indirect, in contract or tort or

otherwise, to MS for or in connection with this Agreement or the transactions contemplated hereby or any actions or inactions by or on behalf of the MSCI Provider Group in connection with this Agreement and such transactions.

- (c) Notwithstanding the provisions of Section 5(a) and (b), none of the members of the MS Provider Group and the MSCI Provider Group shall be liable for any special, indirect, incidental, consequential or punitive damages of any kind whatsoever in any way due to, resulting from or arising in connection with the performance of or failure to perform MS's or MSCI's obligations under this Agreement. This disclaimer applies without limitation (i) to claims for lost profits, (ii) regardless of the form of action, whether in contract, tort (including negligence), strict liability, or otherwise, and (iii) regardless of whether such damages are foreseeable or whether any member of the MS Provider Group or the MSCI Provider Group has been advised of the possibility of such damages.
- (d) In addition to the foregoing, each Party agrees that it shall, in all circumstances, use commercially reasonable efforts to mitigate and otherwise minimize its damages, whether direct or indirect, due to, resulting from or arising in connection with any failure by the other Party to comply fully with its obligations under this Agreement.

6. MISCELLANEOUS

6.1 Governing Law; Jurisdiction; Dispute Resolution.

- (a) This Agreement shall be construed in accordance with and governed by the substantive internal laws of the State of New York. MSCI Inc. is registered to do business in New York under the name NY MSCI Inc.
- (b) Any action seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be brought in the United States District Court for the Southern District of New York or any other New York State court sitting in New York County, and each of the parties hereby consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court.
- (c) THE PARTIES HERETO HEREBY IRREVOCABLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

6.2 Severability.

If any provision of this Agreement shall be invalid or unenforceable, such invalidity or unenforceability shall not render the entire Agreement invalid. Rather, the Agreement shall be construed as if not containing the particular invalid or unenforceable provision, and the rights and obligations of each party shall be construed and enforced accordingly.

6.3 Notices.

Any notice, instruction, direction or demand under the terms of this Agreement required to be in writing shall be duly given upon delivery, if delivered by hand, facsimile transmission, or mail, to the following addresses:

To Morgan Stanley & Co. Incorporated:

Morgan Stanley
1585 Broadway
New York, NY 10036
Attn: Martin M. Cohen, Director of Company Law
Facsimile: (212) 507-3334

To MSCI:

MSCI Inc.
88 Pine Street
New York, New York 10005
Attn: General Counsel
Facsimile: (212) 804-2906

or to such other addresses or teletype numbers as may be specified by like notice to the other party. All such notices, requests and other communications shall be deemed given, (a) when delivered in person or by courier or a courier services, (b) if sent by facsimile transmission (receipt confirmed) on a business day prior to 5 p.m. in the place of receipt, on the date of transmission (or, if sent after 5 p.m., on the following business day) or (c) if mailed by certified mail (return receipt requested), on the date specified on the return receipt.

6.4 Entire Agreement.

This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings and negotiations, both written and oral, between the parties with respect to the subject matter hereof.

6.5 Third Party Beneficiaries.

This Agreement is not intended to confer upon any person or entity other than the parties hereto any rights or remedies hereunder.

6.6 Amendments and Waiver.

- (a) Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by each party to this Agreement, or in the case of a waiver, by the party against whom the waiver is to be effective.
- (b) No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

6.7 Construction.

References to a “Section” shall be references to the sections of this Agreement, unless otherwise specifically stated. The Section headings in this Agreement are intended to be for reference purposes only and shall in no way be construed to modify or restrict any of the terms or provisions of this Agreement.

6.8 Counterparts.

This Agreement may be executed in separate counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their duly authorized representatives.

Morgan Stanley & Co. Incorporated

By: _____
Printed: _____
Title: _____

MSCI Inc.

By: _____
Printed: _____
Title: _____

SHAREHOLDER AGREEMENT

by and between

MORGAN STANLEY

and

MSCI INC.

Dated as of [_____], 2007

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SHAREHOLDER AGREEMENT

THIS SHAREHOLDER AGREEMENT (“**Agreement**”) is entered into as of [], 2007 by and between MSCI Inc., a Delaware corporation (“**MSCI**”), and Morgan Stanley, a Delaware corporation (“**Morgan Stanley**”).

RECITALS

WHEREAS, Morgan Stanley beneficially owns approximately ninety-seven percent (97%) of the issued and outstanding MSCI Class B Common Stock, par value \$0.01 per share (“**Class B Common Stock**”), and MSCI is a member of Morgan Stanley’s “affiliated group” of corporations for federal income tax purposes;

WHEREAS, MSCI has issued shares of Class A Common Stock, \$0.01 par value per share (“**Class A Common Stock**”), to the public in an offering (the “**Initial Public Offering**”) pursuant to registration statement no. 333-144975 under the Securities Act of 1933, as amended; and

WHEREAS, the parties desire to enter into this Agreement to set forth their agreement regarding (i) Morgan Stanley’s rights to purchase additional shares of Class B Common Stock upon any issuance of capital stock of MSCI to any person in order to allow Morgan Stanley to prevent a Morgan Stanley Ownership Reduction, (ii) Morgan Stanley’s rights to purchase shares of nonvoting classes of capital stock of MSCI to permit Morgan Stanley to own no less than eighty percent (80%) of each class of such stock outstanding, (iii) certain registration rights with respect to Class B Common Stock (and any other securities issued in respect thereof or in exchange therefor) and (iv) certain representations, warranties, covenants and agreements applicable to MSCI so long as it is a subsidiary of Morgan Stanley.

AGREEMENTS

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Morgan Stanley and MSCI, for themselves, their successors and assigns, hereby agree as follows:

ARTICLE 1 DEFINITIONS

Section 1.01. *Definitions.* As used in this Agreement, the following terms will have the following meanings, applicable both to the singular and the plural forms of the terms described:

“**Affiliate**” means, with respect to any Person, any Person controlling, controlled by or under common control with such Person. For purposes of this definition, “control” (including, with correlative meanings, the terms “controlled by” and “under common control with”), as applied to any Person, means the possession, directly or indirectly, of the power to vote a majority of the securities having voting power for the election of directors (or other Persons acting in similar capacities) of such Person or otherwise to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

“**Agreement**” has the meaning ascribed thereto in the preamble hereto, as such agreement may be amended and supplemented from time to time in accordance with its terms.

“**Applicable Stock**” means at any time the MSCI Stock owned by the Morgan Stanley Entities.

“**Blackout Period**” has the meaning ascribed thereto in Section 3.01(a)(iv).

“**Class A Common Stock**” has the meaning ascribed thereto in the recitals to this Agreement.

“**Class B Common Stock**” has the meaning ascribed thereto in the recitals to this Agreement.

“**Class B Common Stock Option**” has the meaning ascribed thereto in Section 2.01(a).

“**Class B Common Stock Issuance Notice**” has the meaning ascribed thereto in Section 2.02.

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

“**Damages**” has the meaning ascribed thereto in Section 3.07.

“**Demand Holder**” has the meaning ascribed thereto in Section 3.01(a).

“**Demand Piggyback**” has the meaning ascribed thereto in Section 3.02(c).

“**Demand Registration**” has the meaning ascribed thereto in Section 3.01(a).

“**e-mail**” has the meaning ascribed thereto in Section 5.06.

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended, or any successor statute.

“**Holder**” means Morgan Stanley and any Transferee.

“**Indemnified Party**” has the meaning ascribed thereto in Section 3.07(c).

“**Indemnifying Party**” has the meaning ascribed thereto in Section 3.07(c).

“**Initial Public Offering**” has the meaning ascribed thereto in the recitals to this Agreement.

“**Initial Public Offering Date**” means the date of completion of the initial sale of Class A Common Stock in the Initial Public Offering.

“**Issuance Event**” has the meaning ascribed thereto in Section 2.02.

“**Issuance Event Date**” has the meaning ascribed thereto in Section 2.02.

“**Issuance Notice**” has the meaning ascribed thereto in Section 2.02.

“**Market Price**” of any shares of Class A Common Stock on any date means (i) the average of the last sale price of such shares on each of the five trading days immediately preceding such date on the New York Stock Exchange or, if such shares are not quoted thereon, on the principal national securities exchange on which such shares are traded or (ii) if such sale prices are unavailable or such shares are not so traded, the value of such shares on such date determined in accordance with agreed-upon procedures reasonably satisfactory to MSCI and Morgan Stanley.

“**Maximum Offering Size**” means the largest number of shares that can be sold in an offering of Registrable Securities without having an adverse effect on such offering, including the price at which such Registrable Securities can be sold, as determined by a nationally recognized investment banking firm selected, in the case of a Demand Registration, by a Demand Holder and reasonably acceptable to MSCI and, in the case of a Piggyback Registration, selected by MSCI. In the case of an underwritten offering, such investment banking firm shall also serve as the lead underwriter or managing underwriter.

“**Morgan Stanley**” has the meaning ascribed thereto in the preamble hereto.

“**Morgan Stanley Entities**” means Morgan Stanley and its Subsidiaries (excluding MSCI Entities) and “**Morgan Stanley Entity**” means any of the Morgan Stanley Entities.

“**Morgan Stanley Ownership Reduction**” means any decrease at any time in the Value Ownership Percentage to less than 50% or the Vote Ownership Percentage to less than 80%.

“**MSCI**” has the meaning ascribed thereto in the preamble hereto.

“**MSCI Entities**” means MSCI and its Subsidiaries and “**MSCI Entity**” shall mean any of the MSCI Entities.

“**MSCI Piggyback**” has the meaning ascribed thereto in Section 3.02(b).

“**MSCI Stock**” means the Class A Common Stock, the Class B Common Stock and any other security of MSCI treated as stock for purposes of Sections 355 and 1504 of the Code.

“**Nonvoting Stock**” means any class of MSCI capital stock not having the right to vote generally for the election of directors.

“**Nonvoting Stock Option**” has the meaning ascribed thereto in Section 2.01(b).

“**Nonvoting Stock Issuance Notice**” has the meaning ascribed thereto in Section 2.02.

“**Options**” has the meaning ascribed thereto in Section 2.01(b).

“**Other Holders**” has the meaning ascribed thereto in Section 3.02(b).

“**Other Securities**” has the meaning ascribed thereto in Section 3.02.

“**Person**” means any individual, partnership, limited liability company, joint venture, corporation, trust, unincorporated organization, government (and any department or agency thereof) or other entity.

“**Piggyback Registration**” has the meaning ascribed thereto in Section 3.02.

“**Registrable Securities**” means Class B Common Stock and any stock or other securities into which or for which such Class B Common Stock may hereafter be changed, converted or exchanged and any other shares or securities issued to Holders of such Class B Common Stock (or such shares or other securities into which or for which such shares are so changed, converted or exchanged) upon any reclassification, share combination, share subdivision, share dividend, share exchange, merger, consolidation or similar transaction or event or pursuant to the Nonvoting Stock Option. As to any particular Registrable Securities, such Registrable Securities shall cease to be Registrable Securities when (i) a registration statement with respect to the sale by the Holder thereof shall have been declared effective under the Securities Act and such securities shall have been disposed of in accordance with such registration statement, (ii) they shall have been sold to the public in accordance with Rule 144, (iii) they shall have been otherwise transferred, new certificates for them not bearing a legend restricting further transfer shall have been delivered by MSCI and subsequent disposition of them shall not require registration or qualification of them under the Securities Act or any state securities or blue sky law then in effect or (iv) they shall have ceased to be outstanding.

“Registration Expenses” means any and all expenses incident to performance of or compliance with any registration of securities pursuant to Article 3, including, without limitation, (i) the fees, disbursements and expenses of MSCI’s counsel and accountants and the reasonable fees and expenses of one counsel selected by the Holders; (ii) all expenses, including filing fees, in connection with the preparation, printing and filing of the registration statement, any preliminary prospectus or final prospectus, any other offering document and amendments and supplements thereto and the mailing and delivering of copies thereof to any underwriters and dealers; (iii) the cost of printing or producing any agreements among underwriters, underwriting agreements, and blue sky or legal investment memoranda, any selling agreements and any other documents in connection with the offering, sale or delivery of the securities to be disposed of; (iv) all expenses in connection with the qualification of the securities to be disposed of for offering and sale under state securities laws, including the fees and disbursements of counsel for the underwriters or the Holders of securities in connection with such qualification and in connection with any blue sky and legal investment services; (v) the filing fees incident to securing any required review by the National Association of Securities Dealers, Inc. of the terms of the sale of the securities to be disposed of; (vi) transfer agents’ and registrars’ fees and expenses and the fees and expenses of any other agent or trustee appointed in connection with such offering; (vii) all security engraving and security printing expenses; (viii) all fees and expenses payable in connection with the listing of the securities on any securities exchange or automated interdealer quotation system or the rating of such securities; (ix) any other fees and disbursements of underwriters customarily paid by the issuers of securities, but excluding underwriting discounts and commissions and transfer taxes, if any; and (x) other reasonable out-of-pocket expenses of Holders other than legal fees and expenses referred to in clause (i) above; *provided, that*, the internal administrative costs of each Holder and MSCI shall not be considered “Registration Expenses”.

“Rule 144” means Rule 144 (or any successor rule to similar effect) promulgated under the Securities Act.

“Rule 415 Offering” means an offering on a delayed or continuous basis pursuant to Rule 415 (or any successor rule to similar effect) promulgated under the Securities Act.

“SEC” means the United States Securities and Exchange Commission.

“Securities Act” means the Securities Act of 1933, as amended, or any successor statute.

“Selling Holder” has the meaning ascribed thereto in Section 3.04(e).

“**Subsidiary**” means, as to any Person, any corporation, association, partnership, joint venture or other business entity of which more than 50% of the voting capital stock or other voting ownership interests is owned or controlled directly or indirectly by such Person or by one or more of the Subsidiaries of such Person or by a combination thereof.

“**Tax**” means any tax, governmental fee or other like assessment or charge of any kind whatsoever (including, but not limited to, withholding on amounts paid to or by any Person), together with any interest, penalty, addition to tax or additional amount imposed by any governmental authority responsible for the imposition of any such tax (domestic or foreign), and any liability for any of the foregoing as transferee.

“**Tax-Free Spin-Off**” means a tax-free distribution under Section 355 of the Code or any corresponding provision of any successor statute.

“**Transferee**” has the meaning ascribed thereto in Section 3.09.

“**Value Ownership Percentage**” means, at any time, the fraction, expressed as a percentage and rounded to the next lowest thousandth of a percent, whose numerator is the aggregate value (as determined by Morgan Stanley in good faith) of the Applicable Stock and whose denominator is the aggregate value (as determined by Morgan Stanley in good faith) of the then outstanding shares of MSCI Stock.

“**Vote Ownership Percentage**” means, at any time, the fraction, expressed as a percentage and rounded to the next lowest thousandth of a percent, whose numerator is the aggregate voting power (as determined under Section 355 of the Code) of the Applicable Stock and whose denominator is the aggregate voting power (as determined under Section 355 of the Code) of the then outstanding shares of MSCI Stock.

Section 1.02. *Internal References.* Unless the context indicates otherwise, references to Articles, Sections and paragraphs shall refer to the corresponding articles, sections and paragraphs in this Agreement, and references to the parties shall mean the parties to this Agreement.

ARTICLE 2 OPTIONS

Section 2.01. *Options.* (a) MSCI hereby grants to Morgan Stanley, on the terms and conditions set forth herein, a continuing right (the “**Class B Common Stock Option**”) to purchase from MSCI, at the times set forth herein, such number of shares of Class B Common Stock as is necessary to allow Morgan Stanley Entities to prevent a Morgan Stanley Ownership Reduction. The Class B Common Stock Option shall be assignable, in whole or in part and from time to

time, by Morgan Stanley to any Morgan Stanley Entity. The exercise price for the shares of Class B Common Stock purchased pursuant to the Class B Common Stock Option shall be the Market Price of the Class A Common Stock as of the date of first delivery of notice of exercise of the Class B Common Stock Option by Morgan Stanley (or its permitted assignee hereunder) to MSCI.

(b) MSCI hereby grants to Morgan Stanley, on the terms and conditions set forth herein, a continuing right (the “**Nonvoting Stock Option**” and, together with the Class B Common Stock Option, the “**Options**”) to purchase from MSCI, at the times set forth herein, such number of shares of Nonvoting Stock as is necessary to allow Morgan Stanley Entities to own eighty percent (80%) of each class of outstanding Nonvoting Stock. The Nonvoting Stock Option shall be assignable, in whole or in part and from time to time, by Morgan Stanley to any Morgan Stanley Entity. The exercise price for the shares of Nonvoting Stock purchased pursuant to the Nonvoting Stock Option shall be the price at which such Nonvoting Stock is then being sold to third parties or, if no Nonvoting Stock is being sold, the fair market value thereof as determined in good faith by the board of directors of MSCI.

Section 2.02. *Notice.* At least 20 business days prior to (i) any issuance of any shares of MSCI Stock and (ii) each date on which an event could occur that, in the absence of an exercise of the Class B Common Stock Option, would result in a reduction in the Vote Ownership Percentage or Value Ownership Percentage, MSCI will notify Morgan Stanley in writing (a “**Class B Common Stock Issuance Notice**”) of any plans it has to issue such shares or the date on which such event could first occur. At least 20 business days prior to (x) any issuance of shares of Nonvoting Stock and (y) each date on which an event could occur that, in the absence of an exercise of the Nonvoting Stock Option, would result in any reduction in the percentage of any class of Nonvoting Stock owned by Morgan Stanley Entities or otherwise result in Morgan Stanley Entities owning less than eighty percent (80%) of each class of outstanding Nonvoting Stock, MSCI will notify Morgan Stanley in writing (a “**Nonvoting Stock Issuance Notice**” and, together with a Class B Common Stock Issuance Notice, an “**Issuance Notice**”) of any plans it has to issue such shares or the date on which such event could first occur. Each Issuance Notice must specify the date on which MSCI intends to issue such additional shares or on which such event could first occur (such issuance or event being referred to herein as an “**Issuance Event**” and the date of such issuance or event as an “**Issuance Event Date**”), the number of shares MSCI intends to issue or may issue and the other terms and conditions of such Issuance Event.

Section 2.03. *Option Exercise And Payment.* The Class B Common Stock Option may be exercised by Morgan Stanley (or any Morgan Stanley Entity to which all or any part of the Class B Common Stock Option has been assigned) only for such number of shares as are necessary to prevent a Morgan Stanley Ownership Reduction. The Nonvoting Stock Option may be exercised by Morgan Stanley (or any Morgan Stanley Entity to which all or any part of the Nonvoting

Stock Option has been assigned) only for such number of shares as are necessary for Morgan Stanley Entities to own, in the aggregate, eighty percent (80%) of each class of outstanding Nonvoting Stock. Each Option may be exercised (to the extent then exercisable in accordance with its terms) at any time after receipt of an applicable Issuance Notice and prior to the applicable Issuance Event Date by the delivery to MSCI of a written notice to such effect specifying (i) the number of shares of Class B Common Stock or Nonvoting Stock (as the case may be) to be purchased by Morgan Stanley, or any Morgan Stanley Entity, and (ii) a calculation of the exercise price for such shares. Upon any such exercise of either Option, MSCI will, immediately prior to the issuance or event in connection with an Issuance Event, deliver to Morgan Stanley (or any Morgan Stanley Entity designated by Morgan Stanley), against payment therefor, certificates (issued in the name of Morgan Stanley or its permitted assignee hereunder, or as directed by Morgan Stanley) representing the shares of Class B Common Stock or Nonvoting Stock (as the case may be) being purchased upon such exercise. Payment for such shares shall be made by wire transfer or intrabank transfer to such account as shall be specified by MSCI, for the full purchase price for such shares.

Section 2.04. *Initial Public Offering.* Notwithstanding the foregoing, Morgan Stanley shall not be entitled to exercise the Class B Common Stock Option in connection with the Initial Public Offering of the Class A Common Stock.

Section 2.05. *Termination Of Options.* The Options shall terminate upon the occurrence of a Morgan Stanley Ownership Reduction, other than a Morgan Stanley Ownership Reduction resulting from any Issuance Event in violation of this Agreement. Each Option, or any portion thereof assigned to any Morgan Stanley Entity other than Morgan Stanley, also shall terminate in the event that the Person to whom such Option, or such portion thereof has been transferred, ceases to be a Morgan Stanley Entity for any reason whatsoever.

ARTICLE 3 REGISTRATION RIGHTS

Section 3.01. *Demand Registration - Registrable Securities.* (a) Upon written notice provided at any time after the Initial Public Offering Date from any Holder of Registrable Securities requesting that MSCI effect the registration under the Securities Act of any or all of the Registrable Securities held by such Holder (a “**Demand Holder**”), which notice shall specify the intended method or methods of disposition of such Registrable Securities, MSCI shall use its reasonable best efforts to effect the registration under the Securities Act and applicable state securities laws of such Registrable Securities for disposition in accordance with the intended method or methods of disposition stated in such request (including in a Rule 415 Offering, if MSCI is then eligible to register such Registrable Securities on Form S-3 (or a successor form) for such offering) (a “**Demand Registration**”); *provided, that:*

- (i) the Holders of Registrable Securities may collectively exercise their rights to a Demand Registration on not more than five occasions;

(ii) the Holders of Registrable Securities shall not exercise their rights to a Demand Registration within the six-month period following any registration and sale of Registrable Securities effected pursuant to a prior exercise of rights to a Demand Registration;

(iii) the rights to effect a Demand Registration shall terminate on the tenth anniversary of the date of this Agreement; and

(iv) if the board of directors of MSCI determines in good faith that a Demand Registration (A) would materially impede, delay, interfere with or otherwise materially adversely affect any pending financing, registration of securities by MSCI in a primary offering for its own account, acquisition, corporate reorganization or other significant transaction involving MSCI or (B) would require disclosure of non-public material information that MSCI has a *bona fide* business purpose for preserving as confidential, MSCI shall be entitled to defer the filing or effectiveness of a registration statement, or to suspend the use of an effective registration statement, for the shortest period of time reasonably required (each such period, a “**Blackout Period**”); *provided, that*, MSCI shall not be entitled to invoke Blackout Periods for more than an aggregate of sixty (60) days in any 12-month period. MSCI shall notify each Holder of the expiration or earlier termination of a Blackout Period and, as soon as reasonably practicable after such expiration or termination, shall amend or supplement any effective registration statement to the extent necessary to permit the Holders to resume the use thereof in connection with the offer and sale of their Registrable Securities in accordance with applicable law.

(b) Notwithstanding any other provision of this Agreement to the contrary, a Demand Registration shall not be deemed to have been effected if no Registrable Securities are sold under the registration statement (and, therefore, not requested for purposes of paragraph (a) above).

(c) In the event that a Demand Registration shall involve, in whole or in part, an underwritten offering, the Demand Holder shall have the right to designate an underwriter or underwriters as the lead or managing underwriters of such underwritten offering reasonably acceptable to MSCI (and MSCI hereby acknowledges that Morgan Stanley & Co. Incorporated is reasonably acceptable) and, in connection with each Demand Registration, the Demand Holder may select one counsel to represent all Holders participating in such offering.

(d) MSCI shall have the right to cause the registration of additional equity securities for sale for the account of any Person (including, without limitation, MSCI and any existing or former directors, officers or employees of the MSCI Entities) in any Demand Registration; *provided, that*, if the Demand Holder is advised in writing (with a copy to MSCI) that the inclusion of such additional equity securities in such registration would be likely to exceed the Maximum Offering Size, the registration of such additional equity securities or part thereof shall not be permitted.

(e) The Demand Holder may require that any such additional equity securities described in Section 3.01(d) be included on the same conditions as the Registrable Securities of the Demand Holder to be included therein.

(f) If the Demand Holder believes that the aggregate number of Registrable Securities requested to be included in a Demand Registration would be likely to exceed the Maximum Offering Size, the Demand Holder may request a determination of the Maximum Offering Size. In the event that the Maximum Offering Size is determined to be less than the aggregate number of Registrable Securities requested to be included in such offering, the number of Registrable Securities to be included in the registration statement shall be reduced to the Maximum Offering Size and the number of Registrable Securities in excess of the amount requested by the Demand Holder, if any, shall be allocated *pro rata* among the other Holders requesting to be included in such offering on the basis of the relative number of Registrable Securities then held by each such Holder; *provided, that*, any number in excess of a Holder's request may be reallocated among the remaining requesting Holders in a like manner.

Section 3.02. *Piggyback Registration*. In the event that MSCI at any time after the Initial Public Offering Date proposes to register any of its Common Stock, any other of its equity securities or securities convertible into or exchangeable for its equity securities (collectively, including Common Stock, "**Other Securities**") under the Securities Act, whether or not for sale for its own account, in a manner that would permit registration of Registrable Securities for sale for cash to the public under the Securities Act, it shall at each such time give, at least 30 days prior to the anticipated filing date of the registration statement relating to such registration, written notice to each Holder of Registrable Securities of its intention to do so and of the rights of such Holder under this Section 3.02. Subject to the terms and conditions hereof, such notice shall offer each such Holder the opportunity to include in such registration statement such number of Registrable Securities as such Holder may request (a "**Piggyback Registration**"). Upon the written request of any such Holder made within 15 days after the receipt of MSCI's notice (which request shall specify the number of Registrable Securities intended to be disposed of and the intended method of disposition thereof), MSCI shall use its reasonable best efforts to effect, in connection with the registration of the Other Securities, the registration under the Securities Act of all Registrable Securities which MSCI has been so requested to register, to the extent required to permit the Piggyback Registration; *provided, that*:

(a) if, at any time after giving such written notice of its intention to register any Other Securities and prior to the effective date of the registration statement filed in connection with such registration, MSCI shall determine for any reason not to register the Other Securities, MSCI may, at its election, give written notice of such determination to such Holders and thereupon MSCI shall be relieved of its obligation to register such Registrable Securities in connection with the registration of such Other Securities; *provided, that*, such determination by MSCI shall not prejudice the rights of the Holders of Registrable Securities to immediately request a Demand Registration in accordance with Section 3.01;

(b) if the registration referred to in the first sentence of this Section 3.02 is to be an underwritten registration on behalf of MSCI (an “**MSCI Piggyback**”) and MSCI is advised in writing that the inclusion of all or a part of such Registrable Securities in such registration would be likely to exceed the Maximum Offering Size, MSCI shall include in such registration: (i) *first*, all Other Securities MSCI proposes to sell for its own account and (ii) *second*, the number of securities (including Registrable Securities) that such underwriters advise can be so sold without adversely affecting such offering, allocated *pro rata* among the holders, other than MSCI, of Other Securities (the “**Other Holders**”) and the Holders of Registrable Securities on the basis of the number of securities requested in accordance with this Section 3.02 to be included therein by each Other Holder and each Holder of Registrable Securities; *provided, that*, in the event that the Maximum Offering Size is less than all of such Registrable Securities requested to be included in such offering, any Morgan Stanley Entity may withdraw its request for a Piggyback Registration and 90 days subsequent to the effective date of the registration statement for the registration of such Other Securities request a Demand Registration in accordance with Section 3.01;

(c) if the registration referred to in the first sentence of this Section 3.02 is to be an underwritten secondary registration on behalf of Other Holders (a “**Demand Piggyback**”) and MSCI is advised in writing that the inclusion of such additional securities in such registration would be likely to exceed the Maximum Offering Size, MSCI shall include in such registration the number of additional securities (including Registrable Securities) that such underwriters advise can be so sold without adversely affecting such offering, allocated *pro rata* among the Other Holders and the Holders of Registrable Securities on the basis of the number of securities (including Registrable Securities) requested in accordance with this Section 3.02 to be included therein by each Other Holder and each Holder of Registrable Securities; *provided, that*, in the event that the Maximum Offering Size is less than all of such Registrable Securities requested to be included in such offering, any Morgan Stanley Entity may withdraw its request for a Piggyback Registration and 90 days subsequent to the effective date of the registration statement for the registration of such Other Securities request a Demand Registration in accordance with Section 3.01;

(d) MSCI shall not be required to effect a Piggyback Registration incidental to the registration of any of its securities in connection with mergers, acquisitions, exchange offers, subscription offers, dividend reinvestment plans or stock option or other executive or employee benefit or compensation plans;

(e) no registration of Registrable Securities effected under this Section 3.02 shall relieve MSCI of its obligation to effect a Demand Registration; and

(f) the right to effect a Piggyback Registration shall terminate on the tenth anniversary of this Agreement.

Section 3.03. *Expenses.* (a) In the case of a Demand Registration,

(i) MSCI shall pay all Registration Expenses until and including the second occasion upon which a request for a Demand Registration shall have resulted in the sale of Registrable Securities under a registration statement; and

(ii) the requesting Holders shall pay all Registration Expenses arising in connection with any request for a Demand Registration thereafter.

(b) In the case of a Demand Piggyback, each Holder of Registrable Securities exercising its rights to effect a Piggyback Registration shall be responsible for a *pro rata* portion of the Registration Expenses, based on the number of Registrable Securities included therein by such Holder in proportion to the total number of securities included in such registration.

(c) In the case of an MSCI Piggyback, MSCI shall pay all Registration Expenses.

Section 3.04. *Registration And Qualification.* If and whenever MSCI is required to effect a Demand Registration or a Piggyback Registration, MSCI shall as promptly as practicable:

(a) prepare, file and use its reasonable best efforts to cause to become effective a registration statement under the Securities Act relating to the Registrable Securities to be offered;

(b) prepare and file with the SEC such amendments and supplements to such registration statement and the prospectus used in connection therewith as may be necessary to keep such registration statement effective and to comply with the provisions of the Securities Act with respect to the disposition of all Registrable Securities until the earlier of (i) such time as all of such Registrable Securities have been disposed of in accordance with the intended methods of disposition set forth in such registration statement and (ii) the expiration of the 90-day period after such registration statement becomes effective; *provided, that,*

such 90-day period shall be extended for such number of days that equals the number of days elapsing from (x) the date the written notice contemplated by paragraph (f) below is given by MSCI to (y) the date on which MSCI delivers to the Holders of Registrable Securities the supplement or amendment contemplated by paragraph (f) below;

(c) furnish to the Holders of Registrable Securities and to any underwriter of such Registrable Securities such number of conformed copies of such registration statement and of each such amendment and supplement thereto (in each case including all exhibits), such number of copies of the prospectus included in such registration statement (including each preliminary prospectus and any summary prospectus), in conformity with the requirements of the Securities Act, such documents incorporated by reference in such registration statement or prospectus, and such other documents, as the Holders of Registrable Securities or such underwriter may reasonably request, and a copy of any and all transmittal letters or other correspondence to or received from, the SEC or any other governmental agency or self-regulatory body or other body having jurisdiction (including any domestic or foreign securities exchange) relating to such offering;

(d) use its reasonable best efforts to register or qualify all Registrable Securities covered by such registration statement under the securities or blue sky laws of such jurisdictions as the Holders of such Registrable Securities or any underwriter to such Registrable Securities shall request, and use its reasonable best efforts to obtain all appropriate registrations, permits and consents in connection therewith, and do any and all other acts and things which may be necessary or advisable to enable the Holders of Registrable Securities or any such underwriter to consummate the disposition in such jurisdictions of its Registrable Securities covered by such registration statement; *provided, that*, MSCI shall not for any such purpose be required to qualify generally to do business as a foreign corporation in any such jurisdiction wherein it is not so qualified or to consent to general service of process in any such jurisdiction;

(e) (i) use its reasonable best efforts to furnish to each Holder of Registrable Securities included in such registration (each, a “**Selling Holder**”) and to any underwriter of such Registrable Securities an opinion of counsel for MSCI addressed to each Selling Holder and dated the date of the closing under the underwriting agreement (if any) (or if such offering is not underwritten, dated the effective date of the registration statement), and (ii) use its reasonable best efforts to furnish to each Selling Holder a “cold comfort” letter addressed to each Selling Holder and signed by the independent public accountants who have audited the financial statements of MSCI included in such registration statement, in each such case covering substantially the same matters with respect to such registration statement (and the prospectus included therein) as are customarily covered in opinions of issuer’s counsel and in accountants’ letters delivered to underwriters in underwritten public offerings of securities and such other matters as the Selling Holders may reasonably request and, in the case of such accountants’ letter, with respect to events subsequent to the date of such financial statements;

(f) as promptly as practicable, notify the Selling Holders in writing (i) at any time when a prospectus relating to a registration pursuant to a Demand Registration or Piggyback Registration is required to be delivered under the Securities Act of the happening of any event as a result of which the prospectus included in such registration statement, as then in effect, includes an untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, and (ii) of any request by the SEC or any other regulatory body or other body having jurisdiction for any amendment of or supplement to any registration statement or other document relating to such offering, and in either such case, at the request of the Selling Holders prepare and furnish to the Selling Holders a reasonable number of copies of a supplement to or an amendment of such prospectus as may be necessary so that, as thereafter delivered to the purchasers of such Registrable Securities, such prospectus shall not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they are made, not misleading;

(g) if reasonably requested by the lead or managing underwriters, use its reasonable best efforts to list all such Registrable Securities covered by such registration on each securities exchange on which the Class A Common Stock of MSCI is then listed;

(h) to the extent reasonably requested by the lead or managing underwriters, send appropriate officers of MSCI to attend any “road shows” scheduled in connection with any such registration, with all out-of-pocket costs and expense incurred by MSCI or such officers in connection with such attendance to be paid by MSCI; and

(i) so long as the board of directors of MSCI shall not have provided by resolution or resolutions that all or some of all classes or series of the stock of MSCI shall be represented by uncertificated shares, furnish for delivery in connection with the closing of any offering of Registrable Securities pursuant to a Demand Registration or Piggyback Registration unlegended certificates representing ownership of the Registrable Securities being sold in such denominations as shall be requested by the Selling Holders or the underwriters.

Section 3.05. *Conversion Of Other Securities, Etc.* Subject to any limitations in Section 3.09, in the event that any Holder offers any options, rights, warrants or other securities issued by it or any other Person that are offered with, convertible into or exercisable or exchangeable for any Registrable Securities, the Registrable Securities underlying such options, rights, warrants or other securities shall continue to be eligible for Demand Registration or Piggyback Registration.

Section 3.06. *Underwriting; Due Diligence.* (a) If requested by the underwriters for any underwritten offering of Registrable Securities pursuant to a Demand Registration or Piggyback Registration, MSCI shall enter into an underwriting agreement with such underwriters for such offering, which agreement will contain such representations and warranties by MSCI and such other terms and provisions as are customarily contained in underwriting agreements with respect to secondary distributions, including, without limitation, indemnification and contribution provisions substantially to the effect and to the extent provided in Section 3.07, and agreements as to the provision of opinions of counsel and accountants' letters to the effect and to the extent provided in Section 3.04(e). The Selling Holders on whose behalf the Registrable Securities are to be distributed by such underwriters shall be parties to any such underwriting agreement and the representations and warranties by, and the other agreements on the part of, MSCI to and for the benefit of such underwriters, shall also be made to and for the benefit of such Selling Holders. Such underwriting agreement shall also contain such representations and warranties by such Selling Holders and such other terms and provisions as are customarily contained in underwriting agreements with respect to secondary distributions, including, without limitation, indemnification and contribution provisions substantially to the effect and to the extent provided in Section 3.07.

(b) In connection with the preparation and filing of each registration statement registering Registrable Securities under the Securities Act pursuant to this Article 3, MSCI shall give the Holders of such Registrable Securities and the underwriters, if any, and their respective counsel and accountants, such reasonable and customary access to its books and records and such opportunities to discuss the business of MSCI with its officers and the independent public accountants who have certified the financial statements of MSCI as shall be necessary, in the opinion of such Holders and such underwriters or their respective counsel, to conduct a reasonable investigation within the meaning of the Securities Act; *provided, that*, such Holders and the underwriters and their respective counsel and accountants shall use their reasonable best efforts to coordinate any such investigation of the books and records of MSCI and any such discussions with MSCI's officers and accountants so that all such investigations occur at the same time and all such discussions occur at the same time.

Section 3.07. *Indemnification And Contribution.* (a) In the case of each offering of Registrable Securities made pursuant to this Article 3, MSCI agrees to indemnify and hold harmless, to the extent permitted by law, each Selling Holder, each underwriter of Registrable Securities so offered and each Person, if any, who controls any of the foregoing Persons within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act and the officers, directors, affiliates, employees and agents of each of the foregoing, against any and all losses, liabilities, costs (including reasonable expenses of investigation and reasonable attorney's fees and expenses), claims and damages, joint or several, to which they or any of them may become subject, under the Securities Act or

otherwise, including any amount paid in settlement of any litigation commenced or threatened (“**Damages**”), insofar as such Damages (or actions or proceedings in respect thereof, whether or not such indemnified Person is a party thereto) arise out of or are based upon any untrue statement by MSCI or alleged untrue statement by MSCI of a material fact contained in the registration statement (or in any preliminary or final prospectus included therein) or in any offering memorandum or other offering document relating to the offering and sale of such Registrable Securities prepared by MSCI or at its direction, or any amendment thereof or supplement thereto, or in any document incorporated by reference therein, or any omission by MSCI or alleged omission by MSCI to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading; *provided, that*, MSCI shall not be liable to any Person in any such case to the extent that any such Damages arise out of or relates to any untrue statement or alleged untrue statement, or any omission, if such statement or omission shall have been made in reliance upon and in conformity with information relating to a Selling Holder or another holder of securities included in such registration statement furnished to MSCI by or on behalf of such Selling Holder, other holder or underwriter, as the case may be, specifically for use in the registration statement (or in any preliminary or final prospectus included therein), offering memorandum or other offering document, or any amendment thereof or supplement thereto. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of any Selling Holder or any other holder and shall survive the transfer of such securities. The foregoing indemnity agreement is in addition to any liability that MSCI may otherwise have to each Selling Holder, other holder or underwriter of the Registrable Securities or any controlling person of the foregoing and the officers, directors, affiliates, employees and agents of each of the foregoing; *provided, further*, that, in the case of an offering with respect to which a Selling Holder has designated the lead or managing underwriters (or a Selling Holder is offering Registrable Securities directly, without an underwriter), this indemnity does not apply to any Damages arising out of or relating to any untrue statement or alleged untrue statement or omission or alleged omission in any preliminary prospectus or offering memorandum if a current copy of the prospectus (or such amended or supplemented prospectus, as the case may be) or offering memorandum was not sent or given by or on behalf of any underwriter (or such Selling Holder or other holder, as the case may be) to such Person asserting such Damages at or prior to the written confirmation of the sale of the Registrable Securities as required by the Securities Act and such current copy of the prospectus (or such amended or supplemented prospectus, as the case may be) or offering memorandum would have cured the defect giving rise to such Damages.

(b) In the case of each offering made pursuant to this Agreement, each Selling Holder, by exercising its registration rights hereunder, agrees to indemnify and hold harmless, and to cause each underwriter of Registrable Securities included in such offering (in the same manner and to the same extent as set forth in Section 3.07(a)) to agree to indemnify and hold harmless, MSCI, each other

underwriter who participates in such offering, each other Selling Holder or other holder with securities included in such offering and in the case of an underwriter, such Selling Holder or other holder, and each Person, if any, who controls any of the foregoing within the meaning of the Securities Act and the officers, directors, affiliates, employees and agents of each of the foregoing, against any and all Damages to which they or any of them may become subject, under the Securities Act or otherwise, including any amount paid in settlement of any litigation commenced or threatened, insofar as such Damages (or actions or proceedings in respect thereof, whether or not such indemnified Person is a party thereto) arise out of or are based upon any untrue statement or alleged untrue statement by such Selling Holder or underwriter, as the case may be, of a material fact contained in the registration statement (or in any preliminary or final prospectus included therein) or in any offering memorandum or other offering document relating to the offering and sale of such Registrable Securities prepared by MSCI or at its direction, or any amendment thereof or supplement thereto, or any omission by such Selling Holder or underwriter, as the case may be, or alleged omission by such Selling Holder or underwriter, as the case may be, of a material fact required to be stated therein or necessary to make the statements therein not misleading, but in each case only to the extent that such untrue statement of a material fact is contained in, or such material fact is omitted from, information relating to such Selling Holder or underwriter, as the case may be, furnished to MSCI by or on behalf of such Selling Holder or underwriter, as the case may be, specifically for use in such registration statement (or in any preliminary or final prospectus included therein), offering memorandum or other offering document. The foregoing indemnity is in addition to any liability which such Selling Holder or underwriter, as the case may be, may otherwise have to MSCI, or controlling persons and the officers, directors, affiliates, employees, and agents of each of the foregoing; *provided, that*, in the case of an offering made pursuant to this Agreement with respect to which MSCI has designated the lead or managing underwriters (or MSCI is offering securities directly, without an underwriter), this indemnity does not apply to any Damages arising out of or based upon any untrue statement or alleged untrue statement or omission or alleged omission in any preliminary prospectus or offering memorandum if a current copy of the prospectus (or such amended or supplemented prospectus, as the case may be) or offering memorandum was not sent or given by or on behalf of any underwriter (or MSCI, as the case may be) to such Person asserting such Damages at or prior to the written confirmation of the sale of the Registrable Securities as required by the Securities Act and such current copy of the prospectus (or such amended or supplemented prospectus, as the case may be) or offering memorandum would have cured the defect giving rise to such Damages.

(c) If any proceeding (including any governmental investigation) shall be instituted involving any Person in respect of which indemnity may be sought pursuant to paragraph (a) or (b), such Person (an “**Indemnified Party**”) shall promptly notify the Person against whom such indemnity may be sought (the “**Indemnifying Party**”) in writing and the Indemnifying Party shall assume the

defense thereof, including the employment of counsel reasonably satisfactory to such Indemnified Party, and shall assume the payment of all fees and expenses; *provided, that*, the failure of any Indemnified Party so to notify the Indemnifying Party shall not relieve the Indemnifying Party of its obligations hereunder except to the extent that the Indemnifying Party is materially prejudiced by such failure to notify. In any such proceeding, any Indemnified Party shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless (i) the Indemnifying Party and the Indemnified Party shall have mutually agreed to the retention of such counsel or (ii) in the reasonable judgment of such Indemnified Party representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. It is understood that, in connection with any proceeding or related proceedings in the same jurisdiction, the Indemnifying Party shall not be liable for the reasonable fees and expenses of more than one separate firm of attorneys (in addition to any local counsel) at any time for all such Indemnified Parties, and that all such fees and expenses shall be reimbursed as they are incurred. In the case of any such separate firm for the Indemnified Parties, such firm shall be designated in writing by the Indemnified Parties. The Indemnifying Party shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent, or if there be a final judgment for the plaintiff, the Indemnifying Party shall indemnify and hold harmless such Indemnified Parties from and against any loss or liability (to the extent stated above) by reason of such settlement or judgment. Without the prior written consent of the Indemnified Party, no Indemnifying Party shall effect any settlement of any pending or threatened proceeding in respect of which any Indemnified Party is or could have been a party and indemnity could have been sought hereunder by such Indemnified Party, unless such settlement includes an unconditional release of such Indemnified Party from all liability arising out of such proceeding.

(d) If the indemnification provided for in this Section 3.07 is unavailable to the Indemnified Parties in respect of any Damages, then each such Indemnifying Party, in lieu of indemnifying such Indemnified Party, shall contribute to the amount paid or payable by such Indemnified Party as a result of such Damages (i) as between MSCI and the Selling Holders on the one hand and the underwriters on the other, in such proportion as is appropriate to reflect the relative benefits received by MSCI and such Selling Holders on the one hand and the underwriters on the other, from the offering of the Registrable Securities, or if such allocation is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits but also the relative fault of MSCI and such Selling Holders on the one hand and of such underwriters on the other in connection with the statements or omissions that resulted in such Damages, as well as any other relevant equitable considerations and (ii) as between MSCI on the one hand and each such Selling Holders on the other, in such proportion as is appropriate to reflect the relative fault of MSCI and of each such Selling Holder in connection with such statements or omissions, as well as

any other relevant equitable considerations. The relative benefits received by MSCI and such Selling Holders on the one hand and such underwriters on the other shall be deemed to be in the same proportion as the total proceeds from the offering (net of underwriting discounts and commissions but before deducting expenses) received by MSCI and such Selling Holders bear to the total underwriting discounts and commissions received by such underwriters, in each case as set forth in the table on the cover page of the prospectus or offering memorandum. The relative fault of MSCI and such Selling Holders on the one hand and of such underwriters on the other shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by MSCI and such Selling Holders or by such underwriters. The relative fault of MSCI on the one hand and of each such Selling Holder on the other shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by such party, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

MSCI and the Holders agree that it would not be just and equitable if contribution pursuant to this Section 3.07 were determined by *pro rata* allocation (even if the underwriters were treated as one entity for such purpose) or by any other method of allocation that does not take account of the equitable considerations referred to in the immediately preceding paragraph. The amount paid or payable by an Indemnified Party as a result of the Damages referred to in the immediately preceding paragraph shall be deemed to include, subject to the limitations set forth above, any legal or other expenses reasonably incurred by such Indemnified Party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 3.07, no underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Registrable Securities underwritten by it and distributed to the public were offered to the public exceeds the amount of any Damages that such underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission, and no Shareholder shall be required to contribute any amount in excess of the amount by which the total price at which the Registrable Securities of such Shareholder were offered to the public (less underwriters' discounts and commissions) exceeds the amount of any Damages that such Shareholder has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. Each Selling Holder's obligation to contribute pursuant to this Section 3.07 is several in the proportion that the proceeds of the offering received by such Selling Holder bears to the total proceeds of the offering received by all such Selling Holders and not joint.

(e) Indemnification and contribution similar to that specified in the preceding paragraphs of this Section 3.07 (with appropriate modifications) shall be given by MSCI, the Selling Holders and underwriters with respect to any required registration or other qualification of securities under any state law or regulation or governmental authority.

(f) The obligations of the parties under this Section 3.07 shall be in addition to any liability which any party may otherwise have to any other party.

Section 3.08. *Rule 144 And Form S-3.* Commencing 90 days after the Initial Public Offering Date, MSCI shall use its reasonable best efforts to ensure that the conditions to the availability of Rule 144 set forth in paragraph (c) thereof shall be satisfied. Upon the request of any Holder of Registrable Securities, MSCI will deliver to such Holder a written statement as to whether it has complied with such requirements. MSCI further agrees to use its reasonable best efforts to cause all conditions to the availability of Form S-3 (or any successor form) under the Securities Act of the filing of registration statements under this Agreement to be met as soon as practicable after the Initial Public Offering Date. Notwithstanding anything contained in this Section 3.08, MSCI may deregister under Section 12 of the Exchange Act if it then is permitted to do so pursuant to the Exchange Act and the rules and regulations thereunder.

Section 3.09. *Transfer Of Registration Rights.* Subject to the limitations set forth in Section 3.01(a), any Holder may transfer all or any portion of its rights under this Article 3 to any transferee of a number of Registrable Securities owned by such Holder exceeding three percent (3%) of the outstanding class or series of such securities at the time of transfer (each transferee that receives such minimum number of Registrable Securities, a “**Transferee**”). Any transfer of registration rights pursuant to this Section 3.09 shall be effective upon receipt by MSCI of (i) written notice from such Holder stating the name and address of any Transferee and identifying the number of Registrable Securities with respect to which the rights under this Agreement are being transferred and the nature of the rights so transferred and (ii) a written agreement from such Transferee to be bound by the terms of this Article 3 and Sections 5.03, 5.04, 5.09, 5.11 and 5.12 of this Agreement. The Holders may exercise their rights hereunder in such priority as they shall agree upon among themselves.

Section 3.10. *Holdback Agreement.* If any registration pursuant to this Article 3 shall be in connection with an underwritten public offering of Registrable Securities, each Selling Holder agrees not to effect any public sale or distribution, including any sale under Rule 144, of any equity security of MSCI (otherwise than through the registered public offering then being made), within 7 days prior to or 90 days (or such lesser period as the lead or managing underwriters may permit) after the effective date of the registration statement (or the commencement of the offering to the public of such Registrable Securities in the case of Rule 415 offerings). MSCI hereby also so agrees and agrees to cause each other holder of equity securities or securities convertible into or

exchangeable or exercisable for such securities (other than in the case of equity securities, under dividend reinvestment plans or employee stock plans) purchased from MSCI otherwise than in a public offering to so agree.

Section 3.11. *Agency Prospectus.* (a) From time to time upon request by Morgan Stanley in connection with any public or registered offering of securities by MSCI or any other Person of any MSCI Stock or any Tax-Free Spin-Off of MSCI, MSCI shall prepare and file with the SEC under the Securities Act a registration statement and an “agency prospectus” or other related document to the extent necessary or desirable to permit Morgan Stanley to effect agency transactions by Morgan Stanley & Co. Incorporated in MSCI Stock.

(b) MSCI shall pay all Registration Expenses relating to the preparation and filing of such registration statement and agency prospectus.

(c) MSCI hereby agrees that its indemnification and contribution obligations under Section 3.07 shall apply, *mutatis mutandis*, to paragraphs (a) and (b) above, as if set forth in this Section 3.11.

ARTICLE 4 CERTAIN COVENANTS AND AGREEMENTS

Section 4.01. *No Violations.* (a) Prior to the occurrence of any Morgan Stanley Ownership Reduction, MSCI covenants and agrees that it will not take any action or enter into any commitment or agreement which, to the knowledge of MSCI, may reasonably be anticipated to result, with or without notice and with or without lapse of time or otherwise, in a contravention or event of default by any Morgan Stanley Entity of (i) any provisions of applicable law or regulation, including but not limited to provisions pertaining to the Code or the Employee Retirement Income Security Act of 1974, as amended, (ii) any provision of Morgan Stanley’s certificate of incorporation or bylaws, (iii) any credit agreement or other material instrument binding upon Morgan Stanley, or (iv) any judgment, order or decree of any governmental body, agency or court having jurisdiction over Morgan Stanley or any of their respective assets.

(b) MSCI and Morgan Stanley agree to provide to the other any information and documentation requested by the other for the purpose of evaluating and ensuring compliance with Section 4.01(a) hereof.

(c) Notwithstanding the foregoing Sections 4.01(a) and 4.01(b), nothing in this Agreement is intended to limit or restrict in any way the ability of Morgan Stanley to effect, restrict or limit any action or proposed action of MSCI, including, but not limited to, the incurrence by MSCI of indebtedness, based upon Morgan Stanley’s internal policies or other factors.

Section 4.02. *Additional Undertakings.* (a) From time to time, if requested by MSCI, Morgan Stanley will provide in writing to MSCI notice of the amount of its aggregate ownership of MSCI Stock.

(b) If at any time prior to the Tax-Free Spin-Off Morgan Stanley owns less than 80% of the total value of MSCI Stock as calculated in accordance with Section 1504(a) of the Code, MSCI will not take any action, including the redemption or repurchase of any MSCI Stock, that has the direct or indirect effect of reducing the value of MSCI Stock outstanding for such calculation without the prior written approval of Morgan Stanley.

ARTICLE 5
MISCELLANEOUS

Section 5.01. *Indemnification.* MSCI agrees to indemnify Morgan Stanley, its Affiliates and their respective successors and assigns against, and agrees to hold each of them harmless from, any and all damage, loss, liability, expense (including reasonable expenses of investigation and reasonable attorneys' fees and expenses in connection with any action, suit or proceeding, whether involving a third party claim or a claim solely between the parties hereto), or Taxes (including but not limited to, any Taxes or expense of any Morgan Stanley Entity in connection with any taxable disposition of MSCI Stock held by any Morgan Stanley Entity in the event that Morgan Stanley is unable to effect a Tax-Free Spin-Off as a result of any breach by MSCI of its obligations hereunder) incurred or suffered by Morgan Stanley, any Affiliate of Morgan Stanley or any of their respective successors and assignees arising out of any misrepresentation or breach of warranty or breach of covenant (including, without limitation, Section 4.02) or agreement made or to be performed by MSCI pursuant to this Agreement. Any indemnification payment required to be paid by MSCI to Morgan Stanley under this Section 5.01 shall be increased by an amount (as reasonably determined by Morgan Stanley) equal to any Taxes (including Taxes on such increased amount) Morgan Stanley is required to pay (which amount shall not be reduced by any Tax asset or Tax attribute available to Morgan Stanley) as a result of receiving such indemnification payment. Morgan Stanley will provide MSCI with a brief summary describing how such amount was calculated.

Section 5.02. *Subsidiaries.* Morgan Stanley agrees and acknowledges that Morgan Stanley shall be responsible for the performance by each Morgan Stanley Entity of the obligations hereunder applicable to such Morgan Stanley Entity.

Section 5.03. *Amendments.* This Agreement may not be amended or terminated orally, but only by a writing duly executed by or on behalf of the parties hereto. Any such amendment shall be validly and sufficiently authorized for purposes of this Agreement if it is signed on behalf of Morgan Stanley and MSCI by any of their respective presidents or vice presidents.

Section 5.04. *Term.* This Agreement shall remain in effect until all Registrable Securities held by Holders have been transferred by them to Persons other than Transferees; *provided, that,* the provisions of Section 3.07 shall survive any such expiration.

Section 5.05. *Severability.* If any provision of this Agreement or the application of any such provision to any party or circumstances shall be determined by any court of competent jurisdiction to be invalid, illegal or unenforceable to any extent, the remainder of this Agreement or such provision of the application of such provision to such party or circumstances, other than those to which it is so determined to be invalid, illegal or unenforceable, shall remain in full force and effect to the fullest extent permitted by law and shall not be affected thereby, unless such a construction would be unreasonable.

Section 5.06. *Notices.* All notices and other communications required or permitted hereunder shall be in writing, shall be deemed duly given upon actual receipt, and shall be delivered (a) in person, (b) by registered or certified mail, postage prepaid, return receipt requested, (c) by facsimile or (d) by electronic mail transmission (“**e-mail**”) (if agreed to by the parties and to recipients designated by each party), addressed as follows:

(a) If to MSCI, to:

MSCI Inc.
88 Pine Street
New York, NY 10005
Attention: Frederick W. Bogdan, General Counsel
Fax: (212) 804-2906

(b) If to Morgan Stanley, to:

Morgan Stanley
1585 Broadway
New York, NY 10036
Attention: Martin M. Cohen, Director of Company Law
Fax: (212) 507-3334

or to such other addresses or telecopy numbers as may be specified by like notice to the other parties.

Section 5.07. *Further Assurances.* Morgan Stanley and MSCI shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such instruments and take such other action as may be necessary or advisable to carry out their obligations under this Agreement and under any exhibit, document or other instrument delivered pursuant hereto.

Section 5.08. *Counterparts.* This Agreement may be executed in any number of counterparts, each of which shall be deemed an original instrument, but all of which together shall constitute but one and the same agreement.

Section 5.09. *Governing Law.* This Agreement and the transactions contemplated hereby shall be construed in accordance with, and governed by, the internal laws of the State of New York.

Section 5.10. *Jurisdiction.* The parties hereto agree that any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be brought in the United States District Court for the Southern District of New York or any New York State court sitting in New York City, so long as one of such courts shall have subject matter jurisdiction over such suit, action or proceeding, and that any cause of action arising out of this Agreement shall be deemed to have arisen from a transaction of business in the State of New York, and each of the parties hereby irrevocably consents to the jurisdiction of such courts (and the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on a party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each party agrees that service of process on such party as provided in Section 5.06 shall be deemed effective service of process on such party. MSCI is registered to do business in the State of New York as NY MSCI Inc.

Section 5.11. *Entire Agreement.* This Agreement constitutes the entire understanding of the parties hereto with respect to the subject matter hereof.

Section 5.12. *Successors.* This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and assigns. Nothing contained in this Agreement, express or implied, is intended to confer upon any other person or entity any benefits, rights or remedies.

Section 5.13. *Specific Performance.* The parties hereto acknowledge and agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. Accordingly, it is agreed that they shall be entitled to an injunction or injunctions to prevent breaches of the provisions of this Agreement and to enforce specifically the terms and provisions hereof in any court of competent jurisdiction in the United States or any state thereof, in addition to any other remedy to which they may be entitled at law or equity.

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

MSCI INC.

By: _____

Name:

Title:

MORGAN STANLEY

By: _____

Name:

Title:

CREDIT AGREEMENT

Dated as of November [__], 2007

among

MSCI INC.,
as the Borrower,

MORGAN STANLEY SENIOR FUNDING, INC.,
as Syndication Agent,

BANK OF AMERICA, N.A.,
as Administrative Agent, Collateral Agent, Swing Line Lender and
L/C Issuer,

and

The Other Lenders Party Hereto

MORGAN STANLEY SENIOR FUNDING, INC. and
BANC OF AMERICA SECURITIES LLC,

as Joint Lead Arrangers and Joint Book Managers

and

MIZUHO CORPORATE BANK, LTD.
as Documentation Agent

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CREDIT AGREEMENT

This CREDIT AGREEMENT (“Agreement”) is entered into as of November [___], 2007, among MSCI Inc., a Delaware corporation doing business in the State of New York as NY MSCI Inc. (the “Borrower”), each lender from time to time party hereto (collectively, the “Lenders” and individually, a “Lender”), MORGAN STANLEY SENIOR FUNDING, INC., as Syndication Agent, and BANK OF AMERICA, N.A., as Administrative Agent, Collateral Agent, Swing Line Lender and L/C Issuer.

PRELIMINARY STATEMENTS:

The Borrower desires to repay (the “Refinancing”) in part its demand notes issued to Morgan Stanley with proceeds from a senior secured financing. In addition, the Borrower desires to obtain financing for its ongoing working capital and general corporate requirements, including Permitted Acquisitions.

The Borrower has requested that the Lenders provide a term A loan facility, a term B loan facility and a revolving credit facility, and the Lenders have indicated their willingness to lend and the L/C Issuer has indicated its willingness to issue letters of credit, in each case, on the terms and subject to the conditions set forth herein.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I DEFINITIONS AND ACCOUNTING TERMS

1.01 Defined Terms. As used in this Agreement, the following terms shall have the meanings set forth below:

“Additional Commitments Effective Date” has the meaning specified in Section 2.14(b).

“Additional Lender” has the meaning specified in Section 2.14(b).

“Additional Revolving Credit Commitments” means the commitments of the Additional Revolving Credit Lenders to make Additional Revolving Credit Loans pursuant to Section 2.14.

“Additional Revolving Credit Lenders” means the lenders providing the Additional Revolving Credit Commitments.

“Additional Revolving Credit Loans” means any loans made in respect of any Additional Revolving Credit Commitments that shall have been added pursuant to Section 2.14.

“Additional Term A Commitments” means the commitments of the Additional Term A Lenders to make Additional Term A Loans pursuant to Section 2.14.

“Additional Term A Lenders” means the lenders providing the Additional Term A Loans.

“Additional Term A Loans” means any loans made in respect of any Additional Term A Commitments that shall have been added pursuant to Section 2.14.

“Additional Term B Commitments” means the commitments of the Additional Term B Lenders to make Additional Term B Loans pursuant to Section 2.14.

“Additional Term B Lenders” means the lenders providing the Additional Term B Loans.

“Additional Term B Loans” means any loans made in respect of any Additional Term B Commitments that shall have been added pursuant to Section 2.14.

“Administrative Agent” means Bank of America in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

“Administrative Agent’s Office” means the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 10.02, or such other address or account as the Administrative Agent may from time to time notify to the Borrower and the Lenders.

“Administrative Questionnaire” means an Administrative Questionnaire in a form supplied by the Administrative Agent.

“Affiliate” means, with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

“Aggregate Commitments” means the Commitments of all the Lenders.

“Aggregate Credit Exposures” means, at any time, in respect of (a) the Term A Facility or the Term B Facility, the aggregate amount of the Term A Loans or the Term B Loans, as the case may be, outstanding at such time and (b) in respect of the Revolving Credit Facility, the sum of (i) the unused portion of the Revolving Credit Facility at such time and (ii) the Total Revolving Credit Outstandings at such time.

“Agreement” means this Credit Agreement.

“Applicable Fee Rate” means 0.50% per annum.

“Applicable Percentage” means (a) in respect of the Term A Facility, with respect to any Term A Lender at any time, the percentage (carried out to the ninth decimal place) of the Term A Facility represented by (i) on or prior to the Closing Date, such Term A Lender’s Term A Commitment at such time and (ii) thereafter, the principal amount of such Term A Lender’s Term A Loans at such time, (b) in respect of the Term B Facility, with respect to any Term B Lender at any time, the percentage (carried out to the ninth decimal place) of the Term B Facility represented by (i) on or prior to the Closing Date, such Term B Lender’s Term B

Commitment at such time and (ii) thereafter, the principal amount of such Term B Lender's Term B Loans at such time and (c) in respect of the Revolving Credit Facility, with respect to any Revolving Credit Lender at any time, the percentage (carried out to the ninth decimal place) of the Revolving Credit Facility represented by such Revolving Credit Lender's Revolving Credit Commitment at such time. If the commitment of each Revolving Credit Lender to make Revolving Credit Loans and the obligation of the L/C Issuer to make L/C Credit Extensions have been terminated pursuant to [Section 8.02](#), or if the Revolving Credit Commitments have expired, then the Applicable Percentage of each Revolving Credit Lender in respect of the Revolving Credit Facility shall be determined based on the Applicable Percentage of such Revolving Credit Lender in respect of the Revolving Credit Facility most recently in effect, giving effect to any subsequent assignments. The initial Applicable Percentage of each Lender in respect of each Facility is set forth opposite the name of such Lender on [Schedule 2.01](#) or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable.

"[Applicable Rate](#)" means (a) in respect of the Term A Facility and the Revolving Credit Facility, (i) from the Closing Date to the date on which the Administrative Agent receives a Compliance Certificate pursuant to [Section 6.02\(a\)](#) for the fiscal quarter ending February 29, 2008, 1.50% per annum for Base Rate Loans and 2.50% per annum for Eurodollar Rate Loans and Letter of Credit Fees and (ii) thereafter, the applicable percentage per annum set forth below determined by reference to the Consolidated Leverage Ratio as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to [Section 6.02\(a\)](#):

Pricing Level	Applicable Rate		
	Consolidated Leverage Ratio	Eurodollar Rate (Letters of Credit)	Base Rate
1	£1.25:1	1.50%	0.50%
2	>1.25:1 but £1.75:1	1.75%	0.75%
3	>1.75:1 but £2.25:1	2.00%	1.00%
4	>2.25:1 but £2.75:1	2.25%	1.25%
5	>2.75:1	2.50%	1.50%

and (b) in respect of the Term B Facility, (i) from Closing Date to the date on which the Administrative Agent receives a Compliance Certificate pursuant to [Section 6.02\(a\)](#) for the fiscal quarter ending February 29, 2008, 2.00% per annum for Base Rate Loans and 3.00% per annum for Eurodollar Rate Loans and (ii) thereafter, the applicable percentage per annum set forth below determined by reference to the Consolidated Leverage Ratio as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to [Section 6.02\(a\)](#):

Pricing Level	Applicable Rate		
	Consolidated Leverage Ratio	Eurodollar Rate	Base Rate
1	£2.25:1	2.50%	1.50%
2	>2.25:1 but £2.75:1	2.75%	1.75%
3	>2.75:1	3.00%	2.00%

Any increase or decrease in the Applicable Rate resulting from a change in the Consolidated Leverage Ratio shall become effective as of the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 6.02(a); provided, however, that if a Compliance Certificate is not delivered when due in accordance with such Section, then, upon the written request of the Required Lenders, Pricing Level 5 shall apply in respect of the Term A Facility and the Revolving Credit Facility and Pricing Level 3 shall apply in respect of the Term B Facility, in each case as of the first Business Day after the date on which such Compliance Certificate was required to have been delivered until the first Business Day immediately following delivery of such Compliance Certificate, at which time the Applicable Rate shall be determined based on such Compliance Certificate.

Notwithstanding anything to the contrary contained in this definition, the determination of the Applicable Rate for any period shall be subject to the provisions of Section 2.10(b).

“Applicable Revolving Credit Percentage” means with respect to any Revolving Credit Lender at any time, such Revolving Credit Lender’s Applicable Percentage in respect of the Revolving Credit Facility at such time.

“Appropriate Lender” means, at any time, (a) with respect to any of the Term A Facility, the Term B Facility or the Revolving Credit Facility, a Lender that has a Commitment with respect to such Facility or holds a Term A Loan, a Term B Loan or a Revolving Credit Loan, respectively, at such time, (b) with respect to the Letter of Credit Sublimit, (i) the L/C Issuer and (ii) if any Letters of Credit have been issued pursuant to Section 2.03(a), the Revolving Credit Lenders and (c) with respect to the Swing Line Sublimit, (i) the Swing Line Lender and (ii) if any Swing Line Loans are outstanding pursuant to Section 2.04(a), the Revolving Credit Lenders.

“Approved Fund” means any Fund that is administered, advised or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages a Lender.

“Assignee Group” means two or more Eligible Assignees that are Affiliates of one another or two or more Approved Funds managed or advised by the same investment advisor or investment advisors that are Affiliates of one another.

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 10.06(b)), and accepted by the Administrative Agent, in substantially the form of Exhibit E or any other form approved by the Administrative Agent.

“Attributable Indebtedness” means, on any date, (a) in respect of any Capitalized Lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, (b) in respect of any Synthetic Lease Obligation, the capitalized amount of the remaining lease or similar payments under the relevant lease or other applicable agreement or instrument that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease or other agreement or instrument were accounted for as a Capitalized Lease and (c) all Synthetic Debt of such Person.

“Audited Financial Statements” means the audited consolidated statement of financial condition of the Borrower and its Subsidiaries for the fiscal year ended November 30, 2006, and the related consolidated statements of income, comprehensive income, shareholders’ equity and cash flows for such fiscal year of the Borrower and its Subsidiaries, including the notes thereto.

“Availability Period” means in respect of the Revolving Credit Facility, the period from and including the Closing Date to the earliest of (i) the Maturity Date for the Revolving Credit Facility, (ii) the date of termination of the Revolving Credit Commitments pursuant to Section 2.06, and (iii) the date of termination of the commitment of each Revolving Credit Lender to make Revolving Credit Loans and of the obligation of the L/C Issuer to make L/C Credit Extensions pursuant to Section 8.02.

“Bank of America” means Bank of America, N.A. and its successors.

“BAS” means Banc of America Securities LLC and its successors.

“Base Rate” means for any day a fluctuating rate per annum equal to the higher of (a) the Federal Funds Rate plus 1/2 of 1% and (b) the rate of interest in effect for such day as publicly announced from time to time by Bank of America as its “prime rate.” The “prime rate” is a rate set by Bank of America based upon various factors including Bank of America’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such rate announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change.

“Base Rate Loan” means a Revolving Credit Loan, a Term A Loan or a Term B Loan that bears interest based on the Base Rate.

“Borrower” has the meaning specified in the introductory paragraph hereto.

“Borrower Materials” has the meaning specified in Section 6.02.

“Borrowing” means a Revolving Credit Borrowing, a Swing Line Borrowing, a Term A Borrowing or a Term B Borrowing, as the context may require.

“Business Day” means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, New York, New York and, if such day relates to any Eurodollar Rate Loan, means any such day on which dealings in Dollar deposits are conducted by and between banks in the London interbank eurodollar market.

“Capital Expenditures” means, with respect to any Person for any period, any expenditure in respect of the purchase or other acquisition of any fixed or capital asset (excluding normal replacements and maintenance which are properly charged to current operations) that are (or are required to be) set forth in a consolidated statement of cash flows of such Person for such period in accordance with GAAP. For purposes of this definition, (a) the purchase price of equipment that is purchased substantially contemporaneously with the trade-in of other equipment shall be included in Capital Expenditures only to the extent of the gross amount by which such purchase price exceeds the credit granted by the seller of such equipment for the equipment being traded in at such time and (b) “Capital Expenditures” shall not include expenditures (i) made to restore, replace, rebuild, develop, maintain, improve or upgrade property, to the extent such expenditure is made with, or subsequently reimbursed out of, insurance proceeds, indemnity payments, condemnation awards (or payments in lieu thereof) or damage recovery proceeds or other settlements relating to any damage, loss, destruction or condemnation of such property, (ii) constituting reinvestment of the Net Cash Proceeds of any Disposition, to the extent permitted under Section 2.05(b)(ii), (iii) made by the Borrower or any of its Subsidiaries as payment of the consideration for Permitted Acquisitions, (iv) made by the Borrower or any of its Subsidiaries to effect leasehold improvements to any property leased by the Borrower or any of its Subsidiaries as lessee, to the extent that such expenses have been reimbursed in cash by the landlord, (v) actually paid for or reimbursed by a third party (excluding the Borrower and any of its Subsidiaries) and for which none of the Borrower and its Subsidiaries has provided or is required to provide or incur, directly or indirectly, any consideration or monetary obligation to such third party or any other person (whether before, during or after such period), or (vi) made with the Equity Net Cash Proceeds from the sale or issuance of Qualified Equity Interests of the Borrower that are Not Otherwise Applied.

“Capitalized Leases” means all leases that have been or should be, in accordance with GAAP, recorded as capitalized leases.

“Cash Collateral” has the meaning specified in Section 2.03(g).

“Cash Collateralize” has the meaning specified in Section 2.03(g).

“Cash Equivalents” means any of the following types of Investments, to the extent owned by the Borrower or any of its Subsidiaries free and clear of all Liens (other than Liens created under the Collateral Documents and other Liens permitted under this Agreement):

(a) readily marketable obligations issued or directly and fully guaranteed or insured by the United States of America or any agency or instrumentality thereof having maturities of not more than 360 days from the date of acquisition thereof; provided that the full faith and credit of the United States of America is pledged in support thereof;

(b) time deposits with, or certificates of deposit or bankers’ acceptances of, any commercial bank that (i) (A) is a Lender or (B) is organized under the laws of the United States of America, any state thereof or the District of Columbia or is the principal

banking subsidiary of a bank holding company organized under the laws of the United States of America, any state thereof or the District of Columbia, and is a member of the Federal Reserve System, (ii) issues (or the parent of which issues) commercial paper rated as described in clause (c) of this definition and (iii) has combined capital and surplus of at least \$500,000,000, in each case with maturities of not more than 360 days from the date of acquisition thereof;

(c) commercial paper issued by any Person organized under the laws of any state of the United States of America and rated, at the time of acquisition thereof, at least "Prime-1" (or the then equivalent grade) by Moody's or at least "A-1" (or the then equivalent grade) by S&P, in each case with maturities of not more than 360 days from the date of acquisition thereof;

(d) readily marketable direct obligations issued by any state, commonwealth or territory of the United States or any political subdivision or taxing authority thereof having, at the time of acquisition thereof, an Investment Grade Rating with maturities of 360 days or less from the date of acquisition;

(e) readily marketable direct obligations issued by any foreign government or any political subdivision or public instrumentality thereof, in each case having, at the time of acquisition thereof, an Investment Grade Rating with maturities of 360 days or less from the date of acquisition;

(f) fully collateralized repurchase agreements with a term of not more than 30 days for underlying securities described in clauses (a) through (e) above and entered into with a financial institution satisfying the criteria described in clause (b) above;

(g) any money market or similar fund not less than 90% of the assets of which are comprised of cash or any of the items specified in clauses (a) through (f) of this definition and as to which withdrawals are permitted at least every 90 days; and

(h) other short-term investments utilized by Foreign Subsidiaries in accordance with normal investment practices for cash management in investments of a type analogous to the foregoing.

"Casualty Event" shall mean, with respect to any property of the Borrower or any of its Subsidiaries, any loss of or damage to, or any condemnation of, such property for which the Borrower or any of its Subsidiaries receives insurance proceeds or proceeds of a condemnation award.

"Change in Law" means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority.

“Change of Control” means an event or series of events by which:

(a) except as a result of any spin-off of the Borrower and its Subsidiaries by Morgan Stanley, any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, but excluding any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) other than the Permitted Holders becomes the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934), directly or indirectly, of equity securities of the Borrower representing more than the greater of (i) 40% of the combined voting power of all of the issued and outstanding equity securities of the Borrower entitled to vote for members of the board of directors or equivalent governing body of the Borrower and (ii) the percentage of the combined voting power of all of the issued and outstanding equity securities of the Borrower entitled to vote for members of the board of directors or equivalent governing body of the Borrower then held by the Permitted Holders; or

(b) during any period of 12 consecutive months, a majority of the members of the board of directors or other equivalent governing body of the Borrower cease to be composed of individuals (i) (x) who were members of that board or equivalent governing body on the first day of such period, (y) whose election or nomination to that board or equivalent governing body was approved by Morgan Stanley or any of its Affiliates (other than the Borrower or any of its Subsidiaries) or (z) who became members of that board or equivalent body in connection with any spin-off of the Borrower and its Subsidiaries by Morgan Stanley, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body (excluding, in the case of both clause (ii) and clause (iii), any individual whose initial nomination for, or assumption of office as, a member of that board or equivalent governing body occurs as a result of an actual or threatened solicitation of proxies or consents for the election or removal of one or more directors by any person or group other than a solicitation for the election of one or more directors by or on behalf of the board of directors).

“Class” means, with respect to any Loan or Commitment, its character as a Revolving Credit Loan, a Revolving Credit Commitment, a Term A Loan, a Term A Commitment, a Term B Loan or a Term B Commitment, as the case may be.

“Closing Date” means the first date all the conditions precedent in Section 4.01 and Section 4.02 are satisfied or waived in accordance with Section 10.01 and the initial Credit Extension under this Agreement is made.

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

“Collateral” means all of the “Collateral” and “Material Real Property” referred to in the Collateral Documents and all of the other property that is or is intended under the terms of the Collateral Documents to be subject to Liens in favor of the Collateral Agent for the benefit of the Secured Parties.

“Collateral Agent” means Bank of America in its capacity as collateral agent under any of the Collateral Documents or any successor or replacement collateral agent.

“Collateral Documents” means, collectively, the Security Agreement, the Intellectual Property Security Agreement, the Mortgages, each of the mortgages, collateral assignments, Security Agreement Supplements, IP Security Agreement Supplements, security agreements, pledge agreements or other similar agreements delivered to the Administrative Agent pursuant to Section 6.12, and each of the other agreements, instruments or documents that creates or purports to create a Lien in favor of the Collateral Agent for the benefit of the Secured Parties.

“Commitment” means a Term A Commitment, a Term B Commitment or a Revolving Credit Commitment, as the context may require.

“Committed Loan Notice” means a notice of (a) a Term Borrowing, (b) a Revolving Credit Borrowing, (c) a conversion of Loans from one Type to the other, or (d) a continuation of Eurodollar Rate Loans, pursuant to Section 2.02(a), which, if in writing, shall be substantially in the form of Exhibit A.

“Compliance Certificate” means a certificate substantially in the form of Exhibit D or any other form reasonably acceptable to the Borrower and the Administrative Agent.

“Consolidated EBITDA” means, at any date of determination, an amount equal to Consolidated Net Income of the Borrower and its Subsidiaries on a consolidated basis for the most recently completed Measurement Period plus (a) the following to the extent deducted (and not added back) in calculating such Consolidated Net Income (without duplication): (i) Consolidated Interest Charges, (ii) the provision for Federal, state, local and foreign income taxes and for foreign withholding taxes payable, (iii) depreciation and amortization expense, including any amortization of intangibles, (iv) non-cash charges (including founders’ grants made in connection with the IPO and non-cash charges related to employee benefit or other management or stock compensation plans or expense) (provided that if any such non-cash charges represent an accrual or reserve for potential cash items in any future period, the cash payment in respect thereof in such future period shall be subtracted from Consolidated EBITDA in such future period to such extent, and excluding amortization of a prepaid cash item that was in a prior period), (v) restructuring charges, integration costs or reserves (including such items related to Permitted Acquisitions and to closure/consolidation of facilities), (vi) transaction costs, fees and expenses in connection with the Transaction, or, to the extent permitted hereunder, any sale of Equity Interests, any Permitted Acquisition or other Investment permitted under Section 7.03, any Disposition permitted under Section 7.05, the incurrence of, or any refinancing of, any Indebtedness permitted under Section 7.02 (in each case whether or not successful), (vii) any net after-tax loss from the early extinguishment of Indebtedness or hedging obligations or other derivative instruments, (viii) costs of surety bonds incurred in connection with financing activities, (ix) mark-to-market losses recognized pursuant to Financial Accounting Standards

Board Statement No. 133 or any successor thereof, (x) to the extent reimbursement therefor is actually received by the Borrower or a Subsidiary, expenses incurred to the extent covered by indemnification provisions in any agreement in connection with a Permitted Acquisition and (xi) cash expenses incurred during such period in connection with casualty events to the extent such expenses are reimbursed in cash by insurance during such period and minus (b) the following to the extent included in calculating such Consolidated Net Income (without duplication): (i) Federal, state, local and foreign income tax credits, (ii) all non-cash items increasing Consolidated Net Income (excluding any such non-cash item to the extent it represents the reversal of an accrual or reserve for potential cash item in any prior period), (iii) any net after-tax income from the early extinguishment of Indebtedness or hedging obligations or other derivative instruments, and (iv) mark-to-market gains recognized pursuant to Financial Accounting Standards Board Statement No. 133 or any successor thereof (in each case of or by the Borrower and its Subsidiaries for such Measurement Period); provided that (x) the Consolidated EBITDA for the fiscal quarters ended February 28, 2007, May 31, 2007 and August 31, 2007 shall be as set forth on Schedule I hereto, (y) there shall be excluded in determining Consolidated EBITDA non-operating currency transaction gains and losses (including the net loss or gain resulting from Swap Contracts for currency exchange risk) and (z) for purposes of determining the Consolidated Leverage Ratio and Consolidated Interest Coverage Ratio, Consolidated EBITDA shall be determined on a Pro Forma Basis.

“Consolidated Funded Indebtedness” means, as of any date of determination, for the Borrower and its Subsidiaries on a consolidated basis, the sum, without duplication, of (a) the outstanding principal amount of all obligations, whether current or long-term, for borrowed money (including Obligations hereunder) and all obligations evidenced by bonds, debentures, notes, loan agreements or other similar instruments, (b) all purchase money Indebtedness, (c) all direct but not contingent obligations arising under letters of credit (including standby and commercial), bankers’ acceptances, bank guaranties, surety bonds and similar instruments, (d) all obligations in respect of the deferred purchase price of property or services (other than accrued expenses, deferred expenses and trade accounts payable in the ordinary course of business and earn-out obligations), (e) all Attributable Indebtedness, (f) without duplication, all Guarantees with respect to outstanding Indebtedness of the types specified in clauses (a) through (e) above of Persons other than the Borrower or any of its Subsidiaries, and (g) all Indebtedness of the types referred to in clauses (a) through (f) above of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which the Borrower or any of its Subsidiaries is a general partner or joint venturer (but only to the extent such Person is liable therefor as a result of such Person’s ownership interest in such joint venture), unless such Indebtedness is expressly made non-recourse to the Borrower or such Subsidiary. Notwithstanding any other provision of this Agreement to the contrary, the amount of Consolidated Funded Indebtedness for which recourse is limited either to a specified amount or to an identified asset of such Person shall be deemed to be equal to such specified amount or the fair market value of such identified asset as determined by such Person in good faith, as the case may be.

“Consolidated Interest Charges” means, for any Measurement Period, the sum, without duplication, of (a) all interest, premium payments and debt discount in connection with borrowed money (including capitalized interest) or in connection with the deferred purchase price of assets, in each case to the extent treated as interest in accordance with GAAP but, in any

event, excluding upfront fees and expenses and the amortization of deferred financing costs, and (b) the portion of rent expense under Capitalized Leases that is treated as interest in accordance with GAAP, in each case, of or by the Borrower and its Subsidiaries on a consolidated basis for such period. For purposes of the foregoing, interest expense shall be determined after giving effect to any net payments made or received by the Borrower or any Subsidiary with respect to interest rate Swap Contracts.

“Consolidated Interest Coverage Ratio” means, as of any date of determination, the ratio of (a) Consolidated EBITDA to (b) Consolidated Interest Charges paid in cash, in each case, of or by the Borrower and its Subsidiaries on a consolidated basis for the most recently completed Measurement Period; provided that, for purposes of determining such amount of Consolidated Interest Charges paid in cash for any Measurement Period ending on or prior to the first anniversary of the Closing Date, Consolidated Interest Charges paid in cash means an amount equal to the Consolidated Interest Charges paid in cash from the Closing Date through the date of determination multiplied by a fraction the numerator of which is 365 and the denominator of which is the number of days from the Closing Date through the date of determination.

“Consolidated Leverage Ratio” means, as of any date of determination, the ratio of (a) Consolidated Funded Indebtedness as of such date to (b) Consolidated EBITDA of the Borrower and its Subsidiaries on a consolidated basis for the most recently completed Measurement Period.

“Consolidated Net Income” means, at any date of determination, the net income (or loss) of the Borrower and its Subsidiaries on a consolidated basis for the most recently completed Measurement Period; provided that Consolidated Net Income shall exclude, without duplication, (a) any net after-tax extraordinary, unusual or non-recurring gains, losses or expenses (including severance and relocation costs and one-time compensation charges) for such Measurement Period and the cumulative effect of a change in accounting principles during such Measurement Period, (b) any net after-tax gains or losses on asset sales outside the ordinary course of business, (c) the net income of any Subsidiary (other than a Guarantor) during such Measurement Period to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary of such income is not permitted by operation of the terms of its Organization Documents or any agreement, instrument or Law applicable to such Subsidiary during such Measurement Period, except that the Borrower’s equity in the net income of any such Person for such Measurement Period shall be included in Consolidated Net Income up to the aggregate amount of cash or Cash Equivalents actually distributed by such Person during such Period to the Borrower or a Guarantor as a dividend or other distribution, and (d) any income (or loss) for such Measurement Period of any Person (other than the Borrower) if such Person is not a Subsidiary, except that the Borrower’s equity in the net income of any such Person for such Measurement Period shall be included in Consolidated Net Income up to the aggregate amount of cash or Cash Equivalents actually distributed by such Person during such Period to the Borrower or a Subsidiary as a dividend or other distribution (and in the case of a dividend or other distribution to a Subsidiary (other than a Guarantor), such Subsidiary is not precluded from further distributing such amount to the Borrower (or a Guarantor) as described in clause (c) of this proviso).

“Contractual Obligation” means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

“Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “Controlling” and “Controlled” have meanings correlative thereto.

“Credit Extension” means each of the following: (a) a Borrowing and (b) an L/C Credit Extension.

“Cumulative Excess Cash Flow” means the sum of Excess Cash Flow (but not less than zero for any period) for the fiscal year ending on November 30, 2008 and Excess Cash Flow for each succeeding and completed fiscal year (it being understood that no Excess Cash Flow generated during any period shall be deemed to be Cumulative Excess Cash Flow until the financial statements for such period are delivered pursuant to Section 6.01(a) and the related Compliance Certificate is delivered pursuant to Section 6.02(a)).

“Current Assets” means, with respect to any Person, all assets (other than cash, Cash Equivalents and deferred income taxes) of such Person that, in accordance with GAAP, would be classified as current assets on the balance sheet of such Person, after deducting appropriate and adequate reserves therefrom in each case in which a reserve is proper in accordance with GAAP.

“Current Liabilities” means, with respect to any Person, all items that, in accordance with GAAP, would be classified as current liabilities on the balance sheet of such Person, but excluding, without duplication, (a) the current portion of any long-term Indebtedness, (b) outstanding Revolving Credit Loans, Swing Line Loans and L/C Obligations to the extent otherwise included therein and (c) deferred income taxes.

“Debtor Relief Laws” means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

“Default” means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

“Default Rate” means (a) when used with respect to Obligations other than Letter of Credit Fees, an interest rate equal to (i) the Base Rate plus (ii) the Applicable Rate, if any, applicable to Base Rate Loans under the Term B Facility plus (iii) 2% per annum; provided, however, that with respect to a Eurodollar Rate Loan, the Default Rate shall be an interest rate equal to the interest rate (including any Applicable Rate) otherwise applicable to such Loan plus 2% per annum and (b) when used with respect to Letter of Credit Fees, a rate equal to the Applicable Rate plus 2% per annum.

“Defaulting Lender” means any Lender that (a) has failed to fund any portion of the Term Loans, Revolving Credit Loans, participations in L/C Obligations or participations in Swing Line Loans required to be funded by it hereunder within one Business Day of the date required to be funded by it hereunder, (b) has otherwise failed to pay over to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within one Business Day of the date when due, unless the subject of a good faith dispute, or (c) has been deemed insolvent or become the subject of a bankruptcy or insolvency proceeding.

“Disposition” or “Dispose” means the sale, transfer, license, lease or other disposition (including any sale and leaseback transaction) of any property by any Person (or the granting of any option or other right to do any of the foregoing), including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith.

“Disqualified Equity Interests” means any Equity Interest which, by its terms (or by the terms of any security or other Equity Interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition (a) matures or is mandatorily redeemable (other than solely for Qualified Equity Interests), pursuant to a sinking fund obligation or otherwise, (b) is redeemable at the option of the holder thereof (other than solely for Qualified Equity interests), in whole or in part, (c) provides for the scheduled payments of dividends in cash, or (d) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case of clauses (a) through (d) above, prior to the date that is ninety-one (91) days after the Maturity Date of the Term B Facility; provided that an Equity Interest shall not be deemed to be a Disqualified Equity Interest solely because it is redeemable or is required to be redeemed as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments and all outstanding Letters of Credit.

“Documentation Agent” means Mizuho Corporate Bank, Ltd. in its capacity as a documentation agent under this Agreement.

“Dollar” and “\$” mean lawful money of the United States.

“Domestic Subsidiary” means any Subsidiary that is organized under the laws of the United States, any state thereof or the District of Columbia.

“ECF Percentage” has the meaning specified in Section 2.05(b)(i).

“Eligible Assignee” means any Person that meets the requirements to be an assignee under Section 10.06(b)(iii), (v) and (vi) (subject to such consents, if any, as may be required under Section 10.06(b)(iii)).

“Engagement Letter” means the engagement letter, dated September 25, 2007, among the Borrower, the Administrative Agent and the Lead Arrangers.

“Environmental Laws” means any and all Federal, state, local, and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including those related to hazardous substances or wastes, air emissions and discharges to waste or public waste systems.

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Borrower, any other Loan Party or any of their respective Subsidiaries directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Environmental Permit” means any permit, approval, identification number, license or other authorization required under any Environmental Law.

“Equity Net Cash Proceeds” means, with respect to the issuance or sale of any Qualified Equity Interest of the Borrower, the excess of (i) the sum of the cash and Cash Equivalents received in connection with such issuance or sale over (ii) all taxes, underwriting discounts and commissions and other reasonable out-of-pocket fees and expenses incurred by the Borrower in connection with such issuance or sale.

“Equity Interests” means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities of such Person convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting.

“ERISA” means the Employee Retirement Income Security Act of 1974 and the regulations promulgated and the rulings issued thereunder.

“ERISA Affiliate” means any trade or business (whether or not incorporated) under common control with the Borrower within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

“ERISA Event” means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by the Borrower or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by the Borrower or any

ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate, the treatment of a Plan amendment as a termination under Section 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (e) an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; or (f) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Borrower or any ERISA Affiliate.

“Eurodollar Rate” means, for any Interest Period with respect to a Eurodollar Rate Loan, the rate per annum equal to the British Bankers Association LIBOR Rate (“BBA LIBOR”), as published by Reuters (or other commercially available source providing quotations of BBA LIBOR as designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period. If such rate is not available at such time for any reason, then the “Eurodollar Rate” for such Interest Period shall be the rate per annum determined by the Administrative Agent to be the rate at which deposits in Dollars for delivery on the first day of such Interest Period in same day funds in the approximate amount of the Eurodollar Rate Loan being made, continued or converted by Bank of America and with a term equivalent to such Interest Period would be offered by Bank of America’s London Branch to major banks in the London interbank eurodollar market at their request at approximately 11:00 a.m. (London time) two Business Days prior to the commencement of such Interest Period.

“Eurodollar Rate Loan” means a Revolving Credit Loan, a Term A Loan or a Term B Loan that bears interest at a rate based on the Eurodollar Rate.

“Event of Default” has the meaning specified in Section 8.01.

“Excess Cash Flow” means, for any fiscal year of the Borrower, the excess (if any) of (a) the sum, without duplication, of (i) Consolidated EBITDA for such fiscal year, (ii) if there was a net increase in consolidated Current Liabilities of the Borrower and its Subsidiaries for such fiscal year, the amount of such net increase, (iii) if there was a net decrease in consolidated Current Assets of the Borrower and its Subsidiaries for such fiscal year, the amount of such net decrease and (iv) to the extent excluded from the calculation of Consolidated Net Income, after-tax extraordinary, unusual or non-recurring cash gains over (b) the sum (for such fiscal year), without duplication, of (i) Consolidated Interest Charges actually paid in cash by the Borrower and its Subsidiaries, (ii) scheduled principal repayments, to the extent actually made, of Term Loans pursuant to Section 2.07(a) and Section 2.07(b), (iii) all income taxes and foreign withholding taxes actually paid in cash by the Borrower and its Subsidiaries, (iv) Capital Expenditures actually made by the Borrower and its Subsidiaries in such fiscal year to a party other than the Borrower or any of its Subsidiaries solely to the extent permitted by this Agreement, except to the extent such Capital Expenditures were financed with proceeds of Indebtedness (other than Revolving Credit Loans) or Equity Interests of the Borrower or any of its Subsidiaries or other proceeds from a financing transaction that would not be included in Consolidated EBITDA, (v) if there was a net increase in consolidated Current Assets of the Borrower and its Subsidiaries for such fiscal year, the amount of such net increase, (vi) if there

was a net decrease in consolidated Current Liabilities of the Borrower and its Subsidiaries for such fiscal year, the amount of such net decrease, (vii) cash used to consummate a Permitted Acquisition during such fiscal year to the extent not financed with proceeds of Indebtedness (other than Revolving Credit Loans) or Equity Interests of the Borrower or any of its Subsidiaries, or other proceeds from a financing transaction that would not be included in Consolidated EBITDA, (viii) the aggregate amount of principal payments of Consolidated Funded Indebtedness (other than the Loans) made during such fiscal year, excluding any amount funded with proceeds from the issuance of Indebtedness (other than Revolving Credit Loans) or Equity Interests of the Borrower or any of its Subsidiaries or other proceeds from a financing transaction that would not be included in Consolidated EBITDA, provided that (A) such payments are otherwise permitted under this Agreement and (B) if such Indebtedness consists of a revolving line of credit, the commitments under such revolving line of credit are permanently reduced by the amount of such payment, (ix) the aggregate amount of any premium, make-whole or penalty payments actually paid in cash by the Borrower or any of its Subsidiaries during such period that are required to be made in connection with any prepayment of Indebtedness and that are accounted for as extraordinary items, except to the extent such premium, make-whole or penalty payments are financed with the proceeds of Indebtedness (other than Revolving Credit Loans) or Equity Interests of the Borrower or any of its Subsidiaries or other proceeds from a financing transaction that would not be included in Consolidated EBITDA, (x) cash payments made during such fiscal year in respect of non-cash charges that increased Excess Cash Flow in any prior applicable fiscal year, (xi) to the extent excluded from the calculation of Consolidated Net Income, after-tax extraordinary, unusual or non-recurring cash losses or expenses, (xii) cash costs, fees and expenses in connection with the Transaction, or, to the extent permitted hereunder, any sale of Equity Interests, any Permitted Acquisition or other Investment permitted under Section 7.03, any Disposition permitted under Section 7.05, the incurrence of, or any refinancing of, any Indebtedness permitted under Section 7.02 (in each case whether or not successful) and not paid with the proceeds of any financing transaction, including proceeds of the Loans (other than Revolving Credit Loans), (xiii) to the extent included in calculating Consolidated EBITDA, cash expenses of surety bonds incurred in connection with financing activities and (xiv) to the extent included in calculating Consolidated EBITDA, restructuring charges and integration costs that are cash expenditures.

“Excluded Taxes” means, with respect to the Administrative Agent, any Lender, the L/C Issuer or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder, (a) taxes imposed on or measured by its overall net income (however denominated), and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable Lending Office is located, (b) any branch profits taxes imposed by the United States and (c) in the case of a Foreign Lender (other than an assignee pursuant to a request by the Borrower under Section 10.13), any United States withholding tax that is imposed on amounts payable to such Foreign Lender at the time such Foreign Lender becomes a party hereto (or designates a new Lending Office) or is attributable to such Foreign Lender’s failure or inability (other than as a result of a Change in Law) to comply with Section 3.01(e), except to the extent that such Foreign Lender (or its assignor, if any) was entitled, at the time of designation of a new Lending Office (or assignment), to receive additional amounts from the Borrower with respect to such withholding tax pursuant to Section 3.01(a).

“Facility” means the Term A Facility, the Term B Facility or the Revolving Credit Facility, as the context may require.

“Federal Funds Rate” means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to Bank of America on such day on such transactions as determined by the Administrative Agent.

“Fee Letter” means the fee letter agreement, dated September 25, 2007, among the Borrower, the Administrative Agent and the Lead Arrangers.

“Foreign Lender” means any Lender that is organized under the laws of a jurisdiction other than the United States. For purposes of this definition, the United States, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

“Foreign Subsidiary” means any direct or indirect Subsidiary of the Borrower which is not a Domestic Subsidiary.

“FRB” means the Board of Governors of the Federal Reserve System of the United States.

“Fund” means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities.

“GAAP” means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or such other principles as may be approved by a significant segment of the accounting profession in the United States, that are applicable to the circumstances as of the date of determination, consistently applied.

“Governmental Authority” means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

“Granting Lender” has the meaning specified in Section 10.06(h).

“Guarantee” means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made (or, if such Guarantee is limited by its terms to a lesser amount, such lesser amount) or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith; provided that, in the case of any Guarantee of the type set forth in clause (b) above, if recourse to such Person for such Indebtedness is limited to the assets subject to such Lien, then such Guarantee shall be a Guarantee hereunder solely to the extent of the lesser of (x) the amount of the Indebtedness secured by such Lien and (y) the value of the assets subject to such Lien. The term “Guarantee” as a verb has a corresponding meaning.

“Guarantors” means, collectively, the Subsidiaries of the Borrower listed on Schedule 6.12 and each other Subsidiary of the Borrower that shall be required to execute and deliver a Guaranty or Guaranty supplement pursuant to Section 6.12.

“Guaranty” means, collectively, the Guaranty made by the Guarantors in favor of the Secured Parties, substantially in the form of Exhibit F, together with each other guaranty and guaranty supplement delivered pursuant to Section 6.12.

“Hazardous Materials” means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

“Hedge Bank” means any Person that, at the time it enters into a Secured Hedge Agreement, is a Lender or an Affiliate of a Lender or, if such Secured Hedge Agreement is entered into within 90 days from (and including) the Closing Date, an Affiliate of the Borrower (other than one of its Subsidiaries), in its capacity as a party to such Secured Hedge Agreement.

“Immaterial Subsidiary” means, at any date of determination, a Subsidiary of the Borrower that, together with all other Immaterial Subsidiaries, (i) did not have total assets on the

last day of the most recent Measurement Period that equaled or exceeded 5% of the consolidated total assets of the Borrower and its Subsidiaries at such date, (ii) did not contribute 5% or more of the Consolidated EBITDA of the Borrower and its Subsidiaries for such period and (iii) does not own any Material Intellectual Property or any Material Real Property.

“Indebtedness” means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

(a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;

(b) the maximum amount of all direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), bankers’ acceptances, bank guaranties, surety bonds and similar instruments;

(c) net obligations of such Person under any Swap Contract;

(d) all obligations of such Person to pay the deferred purchase price of property or services (other than trade accounts payable, deferred expenses or accrued expenses in the ordinary course of business and earn-out obligations until such obligations become a liability on the balance sheet of such Person in accordance with GAAP and if not paid after becoming due and payable);

(e) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;

(f) all Attributable Indebtedness of such Person;

(g) all obligations of such Person in respect of Disqualified Equity Interests; and

(h) all Guarantees of such Person in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer (but only to the extent such Person is liable therefor as a result of such Person’s ownership interest in such joint venture), unless such Indebtedness is expressly made non-recourse to such Person. The amount of any net obligation under any Swap Contract on any date shall be deemed to be the Swap Termination Value thereof as of such date.

“Indemnified Taxes” means Taxes other than Excluded Taxes.

“Indemnitees” has the meaning specified in Section 10.04(b).

“Information” has the meaning specified in Section 10.07.

“Intellectual Property Security Agreement” has the meaning specified in Section 4.01(a)(iv).

“Interest Payment Date” means, (a) as to any Eurodollar Rate Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date of the Facility under which such Loan was made; provided, however, that if any Interest Period for a Eurodollar Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates; and (b) as to any Base Rate Loan or Swing Line Loan, the last Business Day of each February, May, August and November, commencing with the last Business Day of February 2008, and the Maturity Date of the Facility under which such Loan was made (with Swing Line Loans being deemed made under the Revolving Credit Facility for purposes of this definition).

“Interest Period” means, as to each Eurodollar Rate Loan, the period commencing on the date such Eurodollar Rate Loan is disbursed or converted to or continued as a Eurodollar Rate Loan and ending on the date one, two, three or six months thereafter, or if available to, and consented to by, all the Appropriate Lenders, nine or twelve months thereafter, as selected by the Borrower in its Committed Loan Notice; provided that:

- (a) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;
- (b) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and
- (c) no Interest Period shall extend beyond the Maturity Date of the Facility under which such Loan was made.

“Interim Audited Financial Statements” has the meaning specified in Section 4.01(f).

“Investment” means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of debt of, or purchase or other acquisition of any other debt or interest in, another Person, or (c) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person that constitute a business unit or all or substantially all of the business of, such Person. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment, but shall be reduced by the amount equal to any returns (including dividends, interest, distributions, returns of principal and profits on sale) received by (or, in the case of any Guarantee, the reduction in exposure to) the Borrower or any of the Subsidiaries in cash in respect of any such Investments made after the Closing Date.

“Investment Grade Rating” means a rating equal to or higher than Baa3 (or the equivalent) by Moody’s or BBB- (or the equivalent) by S&P, or an equivalent rating by any other nationally recognized statistical rating agency selected by the Borrower.

“IP Rights” has the meaning specified in Section 5.17.

“IP Security Agreement Supplement” has the meaning specified in Section 12(g) of the Security Agreement.

“IPO” means the initial public offering of the Borrower’s common stock.

“IRS” means the United States Internal Revenue Service.

“ISP” means, with respect to any Letter of Credit, the “International Standby Practices 1998” published by the Institute of International Banking Law & Practice, Inc. (or such later version thereof as may be in effect at the time of issuance).

“Issuer Documents” means with respect to any Letter of Credit, the Letter of Credit Application, and any other document, agreement and instrument entered into by the L/C Issuer and the Borrower (or any Subsidiary) or in favor of the L/C Issuer and relating to such Letter of Credit.

“Laws” means, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

“L/C Advance” means, with respect to each Revolving Credit Lender, such Lender’s funding of its participation in any L/C Borrowing in accordance with its Applicable Revolving Credit Percentage.

“L/C Borrowing” means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made or refinanced as a Revolving Credit Borrowing.

“L/C Credit Extension” means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the increase of the amount thereof.

“L/C Issuer” means Bank of America in its capacity as issuer of Letters of Credit hereunder, any successor issuer of Letters of Credit hereunder or any other Lender that is approved by the Borrower and the Administrative Agent to issue Letters of Credit. The term “L/C Issuer” shall mean the applicable issuer of the relevant Letters of Credit as the context may require.

“L/C Obligations” means, as at any date of determination, the aggregate amount available to be drawn under all outstanding Letters of Credit plus the aggregate of all Unreimbursed Amounts, including all L/C Borrowings. For purposes of computing the amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.14 of the ISP, such Letter of Credit shall be deemed to be “outstanding” in the amount so remaining available to be drawn.

“Lead Arrangers” means, collectively, MSSF and BAS, in their capacities as joint lead arrangers and joint book managers.

“Lender” has the meaning specified in the introductory paragraph hereto and, as the context requires, includes the Swing Line Lender.

“Lending Office” means, as to any Lender, the office or offices of such Lender described as such in such Lender’s Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Administrative Agent.

“Letter of Credit” means any standby letter of credit issued hereunder.

“Letter of Credit Application” means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by the L/C Issuer.

“Letter of Credit Expiration Date” means the day that is seven days prior to the Maturity Date then in effect for the Revolving Credit Facility (or, if such day is not a Business Day, the next preceding Business Day).

“Letter of Credit Fee” has the meaning specified in Section 2.03(i).

“Letter of Credit Sublimit” means an amount equal to \$25,000,000. The Letter of Credit Sublimit is part of, and not in addition to, the Revolving Credit Facility.

“Lien” means any mortgage, deed of trust, pledge, hypothecation, collateral assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any financing lease having substantially the same economic effect as any of the foregoing).

“Loan” means an extension of credit by a Lender to the Borrower under Article II in the form of a Term Loan, a Revolving Credit Loan or a Swing Line Loan.

“Loan Documents” means, collectively, (a) this Agreement, (b) the Notes, (c) the Guaranty, (d) the Collateral Documents, (e) the Fee Letter and (f) each Issuer Document; provided, that, unless otherwise specified in the applicable Collateral Document or the Guaranty, for the purposes of the Collateral Documents and the Guaranty, “Loan Documents” shall also include Secured Hedge Agreements.

“Loan Parties” means, collectively, the Borrower and each Guarantor.

“Material Adverse Effect” means (a) a material adverse effect on the operations, business, properties, liabilities (actual or contingent) or financial condition of the Borrower and its Subsidiaries, taken as a whole; (b) a material adverse effect on the ability of the Loan Parties (taken as a whole) to perform their payment obligations under any Loan Document; or (c) a material adverse effect on the rights and remedies of the Lenders and the Administrative Agent under any Loan Document, in each case other than such material adverse effect arising out of the IPO or any spin-off of the Borrower and its Subsidiaries by Morgan Stanley as disclosed in the Registration Statement that does not result in a Change of Control.

“Material Contract” means, with respect to any Person, each contract to which such Person is a party the breach of which could reasonably be expected to have a Material Adverse Effect.

“Material Domestic Subsidiary” means at any time, any Domestic Subsidiary that (a) contributed 5.0% or more of the Consolidated EBITDA of the Borrower attributable to the Borrower and the Domestic Subsidiaries for the most recent Measurement Period, (b) had consolidated assets representing 5.0% or more of the total consolidated assets of the Borrower and the Domestic Subsidiaries on the last day of the most recent Measurement Period or (c) owns any Material Intellectual Property or any Material Real Property; provided, that the Borrower shall be required, from time to time, to designate one or more Domestic Subsidiaries that would not otherwise satisfy the foregoing requirements as Material Domestic Subsidiaries to the extent that (a) the aggregate amount of the Consolidated EBITDA of the Borrower for the most recent Measurement Period attributable to all Domestic Subsidiaries that are not Material Domestic Subsidiaries would otherwise exceed 10.0% or more of the Consolidated EBITDA of the Borrower attributable to the Borrower and the Domestic Subsidiaries for such period or (b) the total consolidated assets of all Domestic Subsidiaries that are not Material Domestic Subsidiaries would otherwise exceed 10.0% or more of the total consolidated assets of the Borrower and the Domestic Subsidiaries on the last day of the most recent Measurement Period; provided further that any Domestic Subsidiary that has Guaranteed any material Indebtedness of any of the Loan Parties shall be a Material Domestic Subsidiary.

“Material Intellectual Property” means any IP Rights that are material to the operation of the business of the Borrower and its Subsidiaries, taken as a whole.

“Material Real Property” means real property owned in fee by any Loan Party with a fair market value in the good faith judgment of such Loan Party in excess of \$2,500,000.

“Maturity Date” means (a) with respect to the Revolving Credit Facility, the fifth year anniversary of the Closing Date, (b) with respect to the Term A Facility, the fifth year

anniversary of the Closing Date, and (c) with respect to the Term B Facility, the seventh year anniversary of the Closing Date; provided, however, that, in each case, if such date is not a Business Day, the Maturity Date shall be the next preceding Business Day.

“Measurement Period” means, at any date of determination, the most recently completed four fiscal quarters of the Borrower ending on or prior to such date.

“Moody’s” means Moody’s Investors Service, Inc. and any successor thereto.

“Morgan Stanley” means Morgan Stanley.

“Mortgage” means any mortgage, deed of trust, trust deeds, deed to secure debt or similar document encumbering any Material Real Property and securing the Obligations of one or more Loan Parties.

“MSSF” means Morgan Stanley Senior Funding, Inc. and its successors.

“Multiemployer Plan” means any employee benefit plan of the type described in Section 401(a)(3) of ERISA, to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

“Net Cash Proceeds” means:

(a) with respect to any Disposition by the Borrower or any of its Subsidiaries, or any Casualty Event, the excess, if any, of (i) the sum of cash and Cash Equivalents received in connection with such transaction (including any cash or Cash Equivalents received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received) over (ii) the sum of (A) the principal amount, premium or penalty, if any, interest and other amounts payable in respect of any Indebtedness that is secured by the applicable asset and that is, or is required to be, repaid in connection with such transaction (other than Indebtedness under the Loan Documents), (B) the reasonable out-of-pocket fees and expenses incurred by the Borrower or such Subsidiary in connection with such transaction, (C) taxes reasonably estimated to be actually payable within two years of the date of the relevant transaction (including, in the case of any Disposition or Casualty Event in respect of property of any Foreign Subsidiary, taxes payable upon the repatriation of such proceeds to the United States) in connection therewith; provided that, if the amount of any estimated taxes pursuant to subclause (C) exceeds the amount of taxes actually required to be paid in cash in respect of such Disposition, the aggregate amount of such excess shall constitute Net Cash Proceeds; (D) amounts provided as a reserve against any liabilities under any indemnification obligations or purchase price adjustment associated with such Disposition (provided that, to the extent and at the time any such amounts are released from such reserve other than to pay such liability, such amounts shall constitute Net Cash Proceeds); provided, further, that no such proceeds resulting from any Disposition or any Casualty Event shall be considered Net Cash Proceeds until the aggregate amount of such proceeds not applied pursuant to Section 2.05(b)(ii) exceeds \$2,500,000, at which time the entire amount of such proceeds (including such \$2,500,000) shall constitute Net Cash Proceeds; and

(b) with respect to the incurrence or issuance of any Indebtedness by the Borrower or any of its Subsidiaries, the excess of (i) the sum of the cash and Cash Equivalents received in connection with such transaction over (ii) all taxes (including in the case of any Indebtedness incurred or issued by any Foreign Subsidiary, taxes payable upon the repatriation of such proceeds to the United States), underwriting discounts and commissions, and other reasonable out-of-pocket fees and expenses, incurred by the Borrower or such Subsidiary in connection therewith.

In the case of any such amounts received by a Subsidiary that is not a wholly owned Subsidiary of the Borrower, the Net Cash Proceeds shall be limited to the portion of such amounts corresponding to the percentage of the Equity Interests of such Subsidiary held directly or indirectly by the Borrower.

“Not Otherwise Applied” means, with reference to any amount of Equity Net Cash Proceeds or Excess Cash Flow, as the case may be, that is proposed to be applied to a particular use or transaction, such amount that (a) is not or was not required to be applied to prepay Loans pursuant to Section 2.05(b), and (b) has not previously been (and is not simultaneously being) applied to anything other than that such particular use or transaction.

“Note” means a Term A Note, a Term B Note or a Revolving Credit Note, as the context may require.

“Obligations” means all advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan or Letter of Credit, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding; provided, that, for the purposes of the Collateral Documents and the Guaranty, “Obligations” shall also include obligations of any Loan Party arising under any Secured Hedge Agreement. Without limiting the generality of the foregoing, the Obligations of the Loan Parties under the Loan Documents include (a) the obligation to pay principal, interest, Letter of Credit commissions, charges, expenses, fees, attorneys’ fees and disbursements, indemnities and other amounts payable by any Loan Party under any Loan Document and (b) the obligation of any Loan Party to reimburse any amount in respect of any of the foregoing that any Lender, in its sole discretion, may elect to pay or advance on behalf of such Loan Party.

“Organization Documents” means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any

agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

“Other Taxes” means all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or under any other Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document.

“Outstanding Amount” means (a) with respect to Term Loans, Revolving Credit Loans and Swing Line Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Term Loans, Revolving Credit Loans and Swing Line Loans, as the case may be, occurring on such date; and (b) with respect to any L/C Obligations on any date, the amount of such L/C Obligations on such date after giving effect to any L/C Credit Extension occurring on such date and any other changes in the aggregate amount of the L/C Obligations as of such date, including as a result of any reimbursements by the Borrower of Unreimbursed Amounts.

“Participant” has the meaning specified in Section 10.06(d).

“PBGC” means the Pension Benefit Guaranty Corporation.

“Pension Plan” means any “employee pension benefit plan” (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA and is sponsored or maintained by the Borrower or any ERISA Affiliate or to which the Borrower or any ERISA Affiliate contributes or has an obligation to contribute, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has made contributions at any time during the immediately preceding five plan years.

“Permitted Acquisition” has the meaning specified in Section 7.03(h).

“Permitted Encumbrances” has the meaning specified in the Mortgages.

“Permitted Holders” means Morgan Stanley and Capital Group International, Inc. and their respective Affiliates (other than the Borrower and its Subsidiaries).

“Permitted Refinancing” means, with respect to any Person, any refinancing, refunding, renewal or extension of any Indebtedness of such Person; provided that (a) the principal amount (or accreted value, if applicable) thereof does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so refinanced, refunded, renewed or extended except by an amount equal to unpaid accrued interest and premium thereon plus other reasonable amounts paid, and fees and expenses reasonably incurred, in connection with such refinancing, refunding, renewal or extension and by an amount equal to any existing commitments unutilized thereunder, (b) other than with respect to a Permitted Refinancing in respect of Indebtedness permitted pursuant to Section 7.02(f), such refinancing, refunding, renewal or extension has a final maturity date equal to or later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to

Maturity of, the Indebtedness being refinanced, refunded, renewed or extended, (c) if the Indebtedness being refinanced, refunded, renewed or extended is subordinated in right of payment to the Obligations, such refinancing, refunding, renewal or extension is subordinated in right of payment to the Obligations on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being refinanced, refunded, renewed or extended, taken as a whole, (d) no Subsidiary that is not an obligor under the Indebtedness being refinanced, refunded renewed or extended shall be an obligor under such refinancing, refunding, renewal or extension, and (e) at the time thereof, no Event of Default shall have occurred and be continuing.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Plan” means any “employee benefit plan” (as such term is defined in Section 3(3) of ERISA) established by the Borrower or, with respect to any such plan that is subject to Section 412 of the Code or Title IV of ERISA, any ERISA Affiliate.

“Platform” has the meaning specified in Section 6.02.

“Pledged Debt” has the meaning specified in Section 1(d)(iv) of the Security Agreement.

“Pledged Equity” has the meaning specified in Section 1(d)(iii) of the Security Agreement.

“Pro Forma Basis” means, for purposes of calculating the Consolidated Leverage Ratio and the Consolidated Interest Coverage Ratio:

(a) any Investments, Permitted Acquisitions, Dispositions of any Subsidiary, line of business or division that have been made by the Borrower or any of its Subsidiaries, and incurrences or repayment of Indebtedness during the applicable reference period or subsequent to such reference period and on or prior to the date of determination will be given pro forma effect, as if they had occurred on the first day of the applicable reference period;

(b) any Person that is a Subsidiary of the Borrower on the date of determination will be deemed to have been a Subsidiary of the Borrower at all times during such reference period; and

(c) any Person that is not a Subsidiary of the Borrower on the date of determination will be deemed not to have been a Subsidiary of the Borrower at any time during such reference period.

For purposes of this definition, whenever pro forma effect is given to a transaction, the pro forma calculations shall be made in good faith by a Responsible Officer of the Borrower. Any such pro forma calculation may include, without duplication, adjustments appropriate, in the good faith determination of the Borrower as set forth in a certificate of a Responsible Officer of the Borrower and reasonably acceptable to the Administrative Agent, to

reflect operating expense reductions and other operating improvements or synergies expected to result from any Permitted Acquisitions whether or not such adjustments would be permitted under Article 11 of Regulation S-X. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Borrower may designate.

“Public Lender” has the meaning specified in Section 6.02.

“Qualified Equity Interests” of any Person means any Equity Interests of such Person that are not Disqualified Equity Interests of such Person.

“Refinanced Term Loans” has the meaning specified in Section 10.01.

“Refinancing” has the meaning specified in the Preliminary Statements.

“Register” has the meaning specified in Section 10.06(c).

“Registration Statement” means the Borrower’s registration statement on Form S-1 related to the IPO, and any amendments thereto, filed with the SEC on or prior to the date of this Agreement.

“Related Parties” means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents and advisors of such Person and of such Person’s Affiliates.

“Replacement Term Loans” has the meaning specified in Section 10.01.

“Reportable Event” means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30 day notice period has been waived.

“Request for Credit Extension” means (a) with respect to a Borrowing, conversion or continuation of Term Loans or Revolving Credit Loans, a Committed Loan Notice, (b) with respect to an L/C Credit Extension, a Letter of Credit Application, and (c) with respect to a Swing Line Loan, a Swing Line Loan Notice.

“Required Lenders” means, as of any date of determination, Lenders holding more than 50% of the sum of the (a) Total Outstandings (with the aggregate amount of each Revolving Credit Lender’s risk participation and funded participation in L/C Obligations and Swing Line Loans being deemed “held” by such Revolving Credit Lender for purposes of this definition) and (b) aggregate unused Revolving Credit Commitments; provided that the unused Revolving Credit Commitment of, and the portion of the Total Outstandings held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders.

“Required Revolving Lenders” means, as of any date of determination, Revolving Credit Lenders holding more than 50% of the sum of the (a) Total Revolving Credit Outstandings (with the aggregate amount of each Revolving Credit Lender’s risk participation and funded participation in L/C Obligations and Swing Line Loans being deemed “held” by such Revolving Credit Lender for purposes of this definition) and (b) aggregate unused Revolving Credit Commitments; provided that the unused Revolving Credit Commitment of, and the portion of the Total Revolving Credit Outstandings held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Revolving Lenders.

“Required Term A Lenders” means, as of any date of determination, Term A Lenders holding more than 50% of the Term A Facility on such date; provided that the portion of the Term A Facility held by any Defaulting Lender shall be excluded for purposes of making a determination of Required Term A Lenders.

“Required Term B Lenders” means, as of any date of determination, Term B Lenders holding more than 50% of the Term B Facility on such date; provided that the portion of the Term B Facility held by any Defaulting Lender shall be excluded for purposes of making a determination of Required Term B Lenders.

“Responsible Officer” means the chief executive officer, president, chief financial officer, principal accounting officer, treasurer, assistant treasurer or controller of a Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any capital stock or other Equity Interest of the Borrower or any of its Subsidiaries, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, defeasance, acquisition, cancellation or termination of any such capital stock or other Equity Interest, or on account of any return of capital to the Borrower’s stockholders, partners or members (or the equivalent of any thereof), or any option, warrant or other right to acquire any such dividend or other distribution or payment.

“Revolving Credit Borrowing” means a borrowing consisting of simultaneous Revolving Credit Loans of the same Type and, in the case of Eurodollar Rate Loans, having the same Interest Period made by each of the Revolving Credit Lenders pursuant to Section 2.01(c).

“Revolving Credit Commitment” means, as to each Revolving Credit Lender, its obligation to (a) make Revolving Credit Loans to the Borrower pursuant to Section 2.01(c) or 2.14, (b) purchase participations in L/C Obligations, and (c) purchase participations in Swing Line Loans, in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Lender’s name on Schedule 2.01 under the caption “Revolving Credit Commitment” or opposite such caption in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from

time to time in accordance with this Agreement, including pursuant to [Section 2.14](#). The aggregate Revolving Credit Commitments of all Revolving Credit Lenders shall be \$75,000,000 on the Closing Date, as such amount may be adjusted from time to time in accordance with the terms of this Agreement.

“[Revolving Credit Facility](#)” means, at any time, the aggregate amount of the Revolving Credit Lenders’ Revolving Credit Commitments at such time.

“[Revolving Credit Lender](#)” means, at any time, any Lender that has a Revolving Credit Commitment at such time.

“[Revolving Credit Loan](#)” has the meaning specified in [Section 2.01\(c\)](#).

“[Revolving Credit Note](#)” means a promissory note made by the Borrower in favor of a Revolving Credit Lender evidencing Revolving Credit Loans or Swing Line Loans, as the case may be, made by such Revolving Credit Lender, substantially in the form of [Exhibit C-2](#).

“[S&P](#)” means Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc., and any successor thereto.

“[SEC](#)” means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

“[Secured Hedge Agreement](#)” means any Swap Contract required or permitted under [Article VI](#) or [VII](#) that is entered into by and between the Borrower and any Hedge Bank.

“[Secured Parties](#)” means, collectively, the Administrative Agent, the Lenders, the L/C Issuer, the Hedge Banks, each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to [Section 9.05](#), and the other Persons the Obligations owing to which are or are purported to be secured by the Collateral under the terms of the Collateral Documents.

“[Security Agreement](#)” has the meaning specified in [Section 4.01\(a\)\(iii\)](#).

“[Security Agreement Supplement](#)” has the meaning specified in [Section 22](#) of the Security Agreement.

“[Solvent](#)” and “[Solvency](#)” mean, with respect to any Person on any date of determination, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (b) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person’s ability to pay such debts and liabilities as they mature, and (d) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person’s property would constitute an unreasonably small capital. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

“SPC” has the meaning specified in Section 10.06(h).

“Subsidiary” of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors 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 herein to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of the Borrower.

“Swap Contract” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a “Master Agreement”), including any such obligations or liabilities under any Master Agreement.

“Swap Termination Value” means, in respect of any one or more Swap Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Contracts, (a) for any date on or after the date such Swap Contracts have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Swap Contracts, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Contracts (which may include a Lender or any Affiliate of a Lender).

“Swing Line Borrowing” means a borrowing of a Swing Line Loan pursuant to Section 2.04.

“Swing Line Lender” means Bank of America in its capacity as provider of Swing Line Loans, or any successor swing line lender hereunder.

“Swing Line Loan” has the meaning specified in Section 2.04(a).

“Swing Line Loan Notice” means a notice of a Swing Line Borrowing pursuant to Section 2.04(b), which, if in writing, shall be substantially in the form of Exhibit B.

“Swing Line Sublimit” means an amount equal to the lesser of (a) \$10,000,000 and (b) the Revolving Credit Facility. The Swing Line Sublimit is part of, and not in addition to, the Revolving Credit Facility.

“Syndication Agent” means MSSF in its capacity as syndication agent under this Agreement.

“Synthetic Debt” means, with respect to any Person as of any date of determination thereof, all obligations of such Person in respect of transactions entered into by such Person that are intended to function primarily as a borrowing of funds (including any minority interest transactions that function primarily as a borrowing) but are not otherwise included in the definition of “Indebtedness” or as a liability on the consolidated balance sheet of such Person and its Subsidiaries in accordance with GAAP.

“Synthetic Lease Obligation” means the monetary obligation of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease, or (b) an agreement for the use or possession of property (including sale and leaseback transactions), in each case, creating obligations that do not appear on the balance sheet of such Person but which, upon the application of any Debtor Relief Laws to such Person, would be characterized as the indebtedness of such Person (without regard to accounting treatment).

“Taxes” means all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“Term A Borrowing” means a borrowing consisting of simultaneous Term A Loans of the same Type and, in the case of Eurodollar Rate Loans, having the same Interest Period made by each of the Term A Lenders pursuant to Section 2.01(a).

“Term A Commitment” means, as to each Term A Lender, its obligation to make Term A Loans to the Borrower pursuant to Section 2.01(a) in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Term A Lender’s name on Schedule 2.01 under the caption “Term A Commitment” or opposite such caption in the Assignment and Assumption pursuant to which such Term A Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement, including pursuant to Section 2.14. The aggregate amount of the Term A Commitments as of the Closing Date is \$200,000,000.

“Term A Facility” means, at any time, (a) on or prior to the Closing Date, the aggregate amount of the Term A Commitments at such time and (b) thereafter, the aggregate principal amount of the Term A Loans of all Term A Lenders outstanding at such time.

“Term A Lender” means (a) at any time on or prior to the Closing Date, any Lender that has a Term A Commitment at such time and (b) at any time after the Closing Date, any Lender that holds Term A Loans at such time.

“Term A Loan” means an advance made by any Term A Lender under the Term A Facility.

“Term A Note” means a promissory note made by the Borrower in favor of a Term A Lender evidencing Term A Loans made by such Term A Lender, substantially in the form of Exhibit C-1.

“Term B Borrowing” means a borrowing consisting of simultaneous Term B Loans of the same Type and, in the case of Eurodollar Rate Loans, having the same Interest Period made by each of the Term B Lenders pursuant to Section 2.01(b).

“Term B Commitment” means, as to each Term B Lender, its obligation to make Term B Loans to the Borrower pursuant to Section 2.01(b) in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Lender’s name on Schedule 2.01 under the caption “Term B Commitment” or opposite such caption in the Assignment and Assumption pursuant to which such Term B Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement, including pursuant to Section 2.14. The aggregate amount of the Term B Commitments as of the Closing Date is \$225,000,000.

“Term B Facility” means, at any time, (a) on or prior to the Closing Date, the aggregate amount of the Term B Commitments at such time and (b) thereafter, the aggregate principal amount of the Term B Loans of all Term B Lenders outstanding at such time.

“Term B Lender” means (a) at any time on or prior to the Closing Date, any Lender that has a Term B Commitment at such time and (b) at any time after the Closing Date, any Lender that holds Term B Loans at such time.

“Term B Loan” means an advance made by any Term B Lender under the Term B Facility.

“Term B Note” means a promissory note made by the Borrower in favor of a Term B Lender, evidencing Term B Loans made by such Term B Lender, substantially in the form of Exhibit C-1.

“Term Borrowing” means either a Term A Borrowing or a Term B Borrowing.

“Term Commitment” means either a Term A Commitment or a Term B Commitment.

“Term Facilities” means, at any time, the Term A Facility and the Term B Facility.

“Term Lender” means, at any time, a Term A Lender or a Term B Lender.

“Term Loan” means a Term A Loan or a Term B Loan.

“Threshold Amount” means \$15,000,000.

“Total Outstandings” means the aggregate Outstanding Amount of all Loans and all L/C Obligations.

“Total Revolving Credit Outstandings” means the aggregate Outstanding Amount of all Revolving Credit Loans, Swing Line Loans and L/C Obligations.

“Transaction” means, collectively, (a) the Refinancing, (b) the IPO, (c) the entering into by the Loan Parties and their applicable Subsidiaries of the Loan Documents to which they are a party and (d) the payment of the fees and expenses incurred in connection with the consummation of the foregoing.

“Type” means, with respect to a Loan, its character as a Base Rate Loan or a Eurodollar Rate Loan.

“UCC” means the Uniform Commercial Code as in effect in the State of New York; provided that, if perfection or the effect of perfection or non-perfection or the priority of any security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, “UCC” means the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions hereof relating to such perfection, effect of perfection or non-perfection or priority.

“Unfunded Pension Liability” means the excess of a Pension Plan’s benefit liabilities under Section 4001(a)(16) of ERISA, over the current value of that Pension Plan’s assets, determined in accordance with the assumptions used for funding the Pension Plan pursuant to Section 412 of the Code for the applicable plan year.

“United States” and “U.S.” mean the United States of America.

“Unmatured Surviving Obligations” means Obligations under this Agreement and the other Loan Documents that by their terms survive the termination of this Agreement or the other Loan Documents but are not, as the date of determination, due and payable and for which no outstanding claim has been made.

“Unreimbursed Amount” has the meaning specified in Section 2.03(c)(i).

“USA Patriot Act” has the meaning specified in Section 10.17.

“Weighted Average Life to Maturity” means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (b) the then outstanding principal amount of such Indebtedness.

“wholly-owned” means, with respect to a Subsidiary of a Person, a Subsidiary of such Person all of the outstanding Equity Interests of which (other than (x) director’s qualifying shares and (y) shares issued to foreign nationals to the extent required by applicable Law) are owned by such Person and/or by one or more wholly-owned Subsidiaries of such Person.

1.02 Other Interpretive Provisions. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document (including any Organization Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (iii) the words “herein,” “hereof” and “hereunder,” and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Preliminary Statements, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Preliminary Statements, Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (vi) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(b) In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including,” the words “to” and “until” each mean “to but excluding,” and the word “through” means “to and including.”

(c) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

1.03 Accounting Terms. (a) Generally. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Audited Financial Statements, except as otherwise specifically prescribed herein.

(b) Changes in GAAP. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Borrower or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the

original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided that, until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Borrower shall provide to the Administrative Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

1.04 Rounding. Any financial ratios required to be maintained by the Borrower pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

1.05 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Eastern Time (daylight or standard, as applicable).

1.06 Letter of Credit Amounts. Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the stated amount of such Letter of Credit in effect at such time; provided, however, that with respect to any Letter of Credit that, by its terms or the terms of any Issuer Document related thereto, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

1.07 Currency Equivalents Generally. Any amount specified in this Agreement (other than in Articles II and IX) or any of the other Loan Documents to be in Dollars shall also include the equivalent of such amount in any currency other than Dollars, such equivalent amount thereof in the applicable currency to be determined by the Administrative Agent at such time on the basis of the Spot Rate (as defined below) for the purchase of such currency with Dollars. For purposes of this Section 1.07, the "Spot Rate" for a currency means the rate determined by the Administrative Agent to be the rate quoted by the Person acting in such capacity as the spot rate for the purchase by such Person of such currency with another currency through its principal foreign exchange trading office at approximately 11:00 a.m. on the date two Business Days prior to the date of such determination; provided that the Administrative Agent may obtain such spot rate from another financial institution designated by the Administrative Agent if the Person acting in such capacity does not have as of the date of determination a spot buying rate for any such currency.

1.08 Pro Forma Calculation. Notwithstanding anything to the contrary herein, the calculation of the Consolidated Leverage Ratio and the Consolidated Interest Coverage Ratio on any date for any purpose under this Agreement shall be made on a Pro Forma Basis.

ARTICLE II
THE COMMITMENTS AND CREDIT EXTENSIONS

2.01 The Loans. (a) The Term A Borrowing. Subject to the terms and conditions set forth herein, each Term A Lender severally agrees to make a single loan to the Borrower on the Closing Date in an amount not to exceed such Term A Lender's Term A Commitment. The Term A Borrowing shall consist of Term A Loans made simultaneously by the Term A Lenders in accordance with their respective Applicable Percentage of the Term A Facility. Amounts borrowed under this Section 2.01(a) and repaid or prepaid may not be reborrowed. Term A Loans may be Base Rate Loans or Eurodollar Rate Loans, as further provided herein.

(b) The Term B Borrowing. Subject to the terms and conditions set forth herein, each Term B Lender severally agrees to make a single loan to the Borrower on the Closing Date in an amount not to exceed such Term B Lender's Term B Commitment; provided that the amount payable by such Term B Lender to the Borrower pursuant to such loan will equal 99.50% of the aggregate principal amount of such loan. The Term B Borrowing shall consist of Term B Loans made simultaneously by the Term B Lenders in accordance with their respective Term B Commitments. Amounts borrowed under this Section 2.01(b) and repaid or prepaid may not be reborrowed. Term B Loans may be Base Rate Loans or Eurodollar Rate Loans as further provided herein.

(c) The Revolving Credit Borrowings. Subject to the terms and conditions set forth herein, each Revolving Credit Lender severally agrees to make loans (each such loan, a "Revolving Credit Loan") to the Borrower from time to time, on any Business Day during the Availability Period, in an aggregate amount not to exceed at any time outstanding the amount of such Lender's Revolving Credit Commitment; provided, however, that after giving effect to any Revolving Credit Borrowing, (i) the Total Revolving Credit Outstandings shall not exceed the Revolving Credit Facility, and (ii) the aggregate Outstanding Amount of the Revolving Credit Loans of any Lender, plus such Revolving Credit Lender's Applicable Revolving Credit Percentage of the Outstanding Amount of all L/C Obligations, plus such Revolving Credit Lender's Applicable Revolving Credit Percentage of the Outstanding Amount of all Swing Line Loans shall not exceed such Revolving Credit Lender's Revolving Credit Commitment. Within the limits of each Revolving Credit Lender's Revolving Credit Commitment, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.01(c), prepay under Section 2.05, and reborrow under this Section 2.01(c). Revolving Credit Loans may be Base Rate Loans or Eurodollar Rate Loans, as further provided herein.

2.02 Borrowings, Conversions and Continuations of Loans. (a) Each Term A Borrowing, each Term B Borrowing, each Revolving Credit Borrowing, each conversion of Term Loans or Revolving Credit Loans from one Type to the other, and each continuation of Eurodollar Rate Loans shall be made upon the Borrower's irrevocable notice to the Administrative Agent, which may be given by telephone. Each such notice must be received by the Administrative Agent not later than 11:00 a.m. (i) three Business Days prior to the requested date of any Borrowing of, conversion to or continuation of Eurodollar Rate Loans or of any conversion of Eurodollar Rate Loans to Base Rate Loans (or, in the case of Borrowings to be made on the Closing Date, on the Closing Date), and (ii) on the requested date of any Borrowing

of Base Rate Loans; provided, however, that if the Borrower wishes to request Eurodollar Rate Loans having an Interest Period other than one, two, three or six months in duration as provided in the definition of "Interest Period," (A) the applicable notice must be received by the Administrative Agent not later than 11:00 a.m. four Business Days prior to the requested date of such Borrowing, conversion or continuation, whereupon the Administrative Agent shall give prompt notice to the Appropriate Lenders of such request and determine whether the requested Interest Period is acceptable to all of them and (B) not later than 11:00 a.m., three Business Days before the requested date of such Borrowing, conversion or continuation, the Administrative Agent shall notify the Borrower (which notice may be by telephone) whether or not the requested Interest Period has been consented to by all such Lenders. Each telephonic notice by the Borrower pursuant to this Section 2.02(a) must be confirmed promptly by delivery to the Administrative Agent of a written Committed Loan Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Each Borrowing of, conversion to or continuation of Eurodollar Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof. Except as provided in Sections 2.03(c) and 2.04(c), each Borrowing of or conversion to Base Rate Loans shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof. Each Committed Loan Notice (whether telephonic or written) shall specify (i) whether the Borrower is requesting a Term A Borrowing, a Term B Borrowing, a Revolving Credit Borrowing, a conversion of Term Loans or Revolving Credit Loans from one Type to the other, or a continuation of Eurodollar Rate Loans, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Loans to be borrowed, converted or continued, (iv) the Type of Loans to be borrowed or to which existing Term Loans or Revolving Credit Loans are to be converted, and (v) if applicable, the duration of the Interest Period with respect thereto. If the Borrower fails to specify a Type of Loan in a Committed Loan Notice or if the Borrower fails to give a timely notice requesting a conversion or continuation (or, in the case of outstanding Eurodollar Rate Term Loans, fails to give a notice requesting a conversion or continuation before 11:00 a.m. three Business Days prior to the last date of any Interest Period then in effect), then (a) except in the case of outstanding Eurodollar Rate Term Loans, the applicable Term Loans or Revolving Credit Loans shall be made as, or converted to, Base Rate Loans, and (b) in the case of outstanding Eurodollar Rate Term Loans, such Eurodollar Rate Term Loans shall be continued as Eurodollar Rate Term Loans with an Interest Period of one month. Any such automatic conversion to Base Rate Loans, or continuation of Eurodollar Rate Term Loans for an additional Interest Period of one month, shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurodollar Rate Loans. If the Borrower requests a Borrowing of, conversion to, or continuation of Eurodollar Rate Loans in any such Committed Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month. Notwithstanding anything to the contrary herein, a Swing Line Loan may not be converted to a Eurodollar Rate Loan.

(b) Following receipt of a Committed Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Applicable Percentage under the applicable Facility of the applicable Term A Loans, Term B Loans or Revolving Credit Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans or, if applicable, continuation of Eurodollar Rate Term Loans for an additional Interest Period of one month, described in Section 2.02(a). In the case of a Term A Borrowing, a

Term B Borrowing or a Revolving Credit Borrowing, each Appropriate Lender shall make the amount of its Loan available to the Administrative Agent in immediately available funds at the Administrative Agent's Office not later than 1:00 p.m. on the Business Day specified in the applicable Committed Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.02 (and, if such Borrowing is the initial Credit Extension, Section 4.01), the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent either by (i) crediting the account of the Borrower on the books of Bank of America with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to the Administrative Agent by the Borrower; provided, however, that if, on the date a Committed Loan Notice with respect to a Revolving Credit Borrowing is given by the Borrower, there are L/C Borrowings outstanding, then the proceeds of such Revolving Credit Borrowing, first, shall be applied to the payment in full of any such L/C Borrowings, and second, shall be made available to the Borrower as provided above.

(c) Except as otherwise provided herein, a Eurodollar Rate Loan may be continued or converted only on the last day of an Interest Period for such Eurodollar Rate Loan. Upon notice to the Borrower from the Administrative Agent or the Required Lenders during the existence of an Event of Default, no Loans may be requested as, converted to or continued as Eurodollar Rate Loans.

(d) The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for Eurodollar Rate Loans upon determination of such interest rate. At any time that Base Rate Loans are outstanding, the Administrative Agent shall notify the Borrower and the Lenders of any change in Bank of America's prime rate used in determining the Base Rate promptly following the public announcement of such change.

(e) After giving effect to all Term A Borrowings, all conversions of Term A Loans from one Type to the other, and all continuations of Term A Loans as the same Type, there shall not be more than five (5) Interest Periods in effect in respect of the Term A Facility. After giving effect to all Term B Borrowings, all conversions of Term B Loans from one Type to the other, and all continuations of Term B Loans as the same Type, there shall not be more than five (5) Interest Periods in effect in respect of the Term B Facility. After giving effect to all Revolving Credit Borrowings, all conversions of Revolving Credit Loans from one Type to the other, and all continuations of Revolving Credit Loans as the same Type, there shall not be more than ten (10) Interest Periods in effect in respect of the Revolving Credit Facility.

(f) Anything in this Section 2.02 to the contrary notwithstanding, the Borrower may not select Interest Periods for Eurodollar Rate Loans that have a duration of more than one month until the earlier to occur of (i) the 15th day following the Closing Date and (ii) the date upon which the Administrative Agent has determined that primary syndication has been completed (and the Administrative Agent undertakes to notify the Borrower promptly upon making such determination).

2.03 Letters of Credit. (a) The Letter of Credit Commitment. (i) Subject to the terms and conditions set forth herein, (A) the L/C Issuer agrees, in reliance upon the agreements of the Revolving Credit Lenders set forth in this Section 2.03, (1) from time to time

on any Business Day during the period from the Closing Date until the Letter of Credit Expiration Date, to issue Letters of Credit for the account of the Borrower or its Subsidiaries, and to amend or extend Letters of Credit previously issued by it, in accordance with Section 2.03(b), and (2) to honor drawings under the Letters of Credit; and (B) the Revolving Credit Lenders severally agree to participate in Letters of Credit issued for the account of the Borrower or its Subsidiaries and any drawings thereunder; provided that after giving effect to any L/C Credit Extension with respect to any Letter of Credit, (x) the Total Revolving Credit Outstandings shall not exceed the Revolving Credit Facility, (y) the aggregate Outstanding Amount of the Revolving Credit Loans of any Revolving Credit Lender, plus such Lender's Applicable Revolving Credit Percentage of the Outstanding Amount of all L/C Obligations, plus such Lender's Applicable Revolving Credit Percentage of the Outstanding Amount of all Swing Line Loans shall not exceed such Lender's Revolving Credit Commitment, and (z) the Outstanding Amount of the L/C Obligations shall not exceed the Letter of Credit Sublimit. Each request by the Borrower for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by the Borrower that the L/C Credit Extension so requested complies with the conditions set forth in the proviso to the preceding sentence. Within the foregoing limits, and subject to the terms and conditions hereof, the Borrower's ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrower may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed.

(ii) The L/C Issuer shall not issue any Letter of Credit if:

(A) subject to Section 2.03(b)(iii), the expiry date of such requested Letter of Credit would occur more than twelve months after the date of issuance or last extension, unless the Required Revolving Lenders have approved such expiry date; or

(B) the expiry date of such requested Letter of Credit would occur after the Letter of Credit Expiration Date, unless all the Revolving Credit Lenders have approved such expiry date.

(iii) The L/C Issuer shall not be under any obligation to issue any Letter of Credit if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain the L/C Issuer from issuing such Letter of Credit, or any Law applicable to the L/C Issuer or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over the L/C Issuer shall prohibit, or request that the L/C Issuer refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon the L/C Issuer with respect to such Letter of Credit any restriction, reserve or capital requirement (for which the L/C Issuer is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon the L/C Issuer any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which the L/C Issuer in good faith deems material to it;

- (B) the issuance of such Letter of Credit would violate one or more policies of the L/C Issuer applicable to letters of credit generally;
- (C) except as otherwise agreed by the Administrative Agent and the L/C Issuer, such Letter of Credit is in an initial stated amount less than \$250,000;
- (D) such Letter of Credit is to be denominated in a currency other than Dollars;
- (E) a default of any Lender's obligations to fund under Section 2.03(c) exists or any Lender is at such time a Defaulting Lender hereunder, unless the L/C Issuer has entered into satisfactory arrangements with the Borrower or such Lender to eliminate the L/C Issuer's risk with respect to such Lender.
- (iv) The L/C Issuer shall not amend any Letter of Credit if the L/C Issuer would not be permitted at such time to issue such Letter of Credit in its amended form under the terms hereof.
- (v) The L/C Issuer shall be under no obligation to amend any Letter of Credit if (A) the L/C Issuer would have no obligation at such time to issue such Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment to such Letter of Credit.

(vi) The L/C Issuer shall act on behalf of the Revolving Credit Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and the L/C Issuer shall have all of the benefits and immunities (A) provided to the Administrative Agent in Article IX with respect to any acts taken or omissions suffered by the L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and Issuer Documents pertaining to such Letters of Credit as fully as if the term "Administrative Agent" as used in Article IX included the L/C Issuer with respect to such acts or omissions, and (B) as additionally provided herein with respect to the L/C Issuer.

(b) Procedures for Issuance and Amendment of Letters of Credit; Auto-Extension Letters of Credit. (i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrower delivered to the L/C Issuer (with a copy to the Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of the Borrower. Such Letter of Credit Application must be received by the L/C Issuer and the Administrative Agent not later than 11:00 a.m. at least two Business Days (or such later date and time as the Administrative Agent and the L/C Issuer may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail reasonably satisfactory to the L/C Issuer: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; (G) the purpose and nature of the requested Letter of Credit;

and (H) such other matters as the L/C Issuer may reasonably require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail reasonably satisfactory to the L/C Issuer (1) the Letter of Credit to be amended; (2) the proposed date of amendment thereof (which shall be a Business Day); (3) the nature of the proposed amendment; and (4) such other matters as the L/C Issuer may reasonably require. Additionally, the Borrower shall furnish to the L/C Issuer and the Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any Issuer Documents, as the L/C Issuer or the Administrative Agent may reasonably require.

(ii) Promptly after receipt of any Letter of Credit Application, the L/C Issuer will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such Letter of Credit Application from the Borrower and, if not, the L/C Issuer will provide the Administrative Agent with a copy thereof. Unless the L/C Issuer has received written notice from any Revolving Credit Lender, the Administrative Agent or any Loan Party, at least one Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit (which notice has not been revoked), that one or more applicable conditions contained in Article IV shall not then be satisfied, then, subject to the terms and conditions hereof, the L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of the Borrower (or the applicable Subsidiary) or enter into the applicable amendment, as the case may be, in each case in accordance with the L/C Issuer's usual and customary business practices. Immediately upon the issuance of each Letter of Credit, each Revolving Credit Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the L/C Issuer a risk participation in such Letter of Credit in an amount equal to the product of such Revolving Credit Lender's Applicable Revolving Credit Percentage times the amount of such Letter of Credit.

(iii) If the Borrower so requests in any applicable Letter of Credit Application, the L/C Issuer may, in its sole and absolute discretion, agree to issue a Letter of Credit that has automatic extension provisions (each, an "Auto-Extension Letter of Credit"); provided that any such Auto-Extension Letter of Credit must permit the L/C Issuer to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the "Non-Extension Notice Date") in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by the L/C Issuer, the Borrower shall not be required to make a specific request to the L/C Issuer for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Revolving Credit Lenders shall be deemed to have authorized (but may not require) the L/C Issuer to permit the extension of such Letter of Credit at any time to an expiry date not later than the Letter of Credit Expiration Date; provided, however, that the L/C Issuer shall not permit any such extension if (A) the L/C Issuer has determined that it would not be permitted, or would have no obligation at such time to issue such Letter of Credit in its revised form (as extended) under the terms hereof (by reason of the provisions of clause (ii) or (iii) of Section 2.03(a) or otherwise), or (B) it has received notice (which may be by telephone or in writing) on or before the day that is seven Business Days before the Non-Extension Notice Date (1) from the Administrative Agent that the Required Revolving Lenders have elected not to permit such extension or (2) from the Administrative Agent, any Revolving Credit Lender or the Borrower that one or more of the applicable conditions specified in Section 4.02 is not then satisfied, and in each such case directing the L/C Issuer not to permit such extension.

(iv) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the L/C Issuer will also deliver to the Borrower and the Administrative Agent a true and complete copy of such Letter of Credit or amendment.

(c) Drawings and Reimbursements; Funding of Participations. (i) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the L/C Issuer shall notify the Borrower and the Administrative Agent thereof. Not later than 1:00 p.m. on the later of (i) the date of any payment by the L/C Issuer under a Letter of Credit and (ii)(A) the date upon which the Borrower receives notice from the L/C Issuer of such payment by the L/C Issuer, if such notice is received by the Borrower prior to 10:00 a.m. on a Business Day or (B) the Business Day immediately following the date upon which the Borrower received such notice, if such notice is received on a day that is not a Business Day or after 10:00 a.m. on a Business Day (each such date, an "Honor Date"), the Borrower shall reimburse the L/C Issuer through the Administrative Agent in an amount equal to the amount of such drawing. If the Borrower fails to so reimburse the L/C Issuer by such time, the Administrative Agent shall promptly notify each Revolving Credit Lender of the Honor Date, the amount of the unreimbursed drawing (the "Unreimbursed Amount"), and the amount of such Revolving Credit Lender's Applicable Revolving Credit Percentage thereof. In such event, the Borrower shall be deemed to have requested a Revolving Credit Borrowing of Base Rate Loans to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.02 for the principal amount of Base Rate Loans, but subject to the amount of the unutilized portion of the Revolving Credit Commitments and the conditions set forth in Section 4.02 (other than the delivery of a Committed Loan Notice). Any notice given by the L/C Issuer or the Administrative Agent pursuant to this Section 2.03(c)(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Revolving Credit Lender shall upon any notice pursuant to Section 2.03(c)(i) make funds available to the Administrative Agent for the account of the L/C Issuer at the Administrative Agent's Office in an amount equal to its Applicable Revolving Credit Percentage of the Unreimbursed Amount not later than 1:00 p.m. on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.03(c)(iii), each Revolving Credit Lender that so makes funds available shall be deemed to have made a Base Rate Loan to the Borrower in such amount. The Administrative Agent shall remit the funds so received to the L/C Issuer.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Revolving Credit Borrowing of Base Rate Loans because the conditions set forth in Section 4.02 cannot be satisfied or for any other reason, the Borrower shall be deemed to have incurred from the L/C Issuer an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate. In such event, each Revolving Credit Lender's payment to the Administrative Agent for the account of the L/C Issuer pursuant to

Section 2.03(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.03.

(iv) Until a Revolving Credit Lender funds its Revolving Credit Loan or L/C Advance pursuant to this Section 2.03(c) to reimburse the L/C Issuer for any amount drawn under any Letter of Credit, interest in respect of such Lender's Applicable Revolving Credit Percentage of such amount shall be solely for the account of the L/C Issuer.

(v) Each Revolving Credit Lender's obligation to make Revolving Credit Loans or L/C Advances to reimburse the L/C Issuer for amounts drawn under Letters of Credit, as contemplated by this Section 2.03(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the L/C Issuer, the Borrower or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Revolving Credit Lender's obligation to make Revolving Credit Loans pursuant to this Section 2.03(c) is subject to the conditions set forth in Section 4.02 (other than delivery by the Borrower of a Committed Loan Notice). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the Borrower to reimburse the L/C Issuer for the amount of any payment made by the L/C Issuer under any Letter of Credit, together with interest as provided herein.

(vi) If any Revolving Credit Lender fails to make available to the Administrative Agent for the account of the L/C Issuer any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.03(c) by the time specified in Section 2.03(c)(ii), the L/C Issuer shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the L/C Issuer at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by the L/C Issuer in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the L/C Issuer in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's committed Loan included in the relevant committed Borrowing or L/C Advance in respect of the relevant L/C Borrowing, as the case may be. A certificate of the L/C Issuer submitted to any Revolving Credit Lender (through the Administrative Agent) with respect to any amounts owing under this Section 2.03(c)(vi) shall be conclusive absent manifest error.

(d) Repayment of Participations. (i) At any time after the L/C Issuer has made a payment under any Letter of Credit and has received from any Revolving Credit Lender such Lender's L/C Advance in respect of such payment in accordance with Section 2.03(c), if the Administrative Agent receives for the account of the L/C Issuer any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from the Borrower or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), the Administrative Agent will distribute to such Lender its Applicable Revolving Credit Percentage thereof in the same funds as those received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of the L/C Issuer pursuant to Section 2.03(c)(i) is required to be returned under any of the circumstances described in Section 10.05 (including pursuant to any settlement entered into by the L/C Issuer in its discretion), each Revolving Credit Lender shall pay to the Administrative Agent for the account of the L/C Issuer its Applicable Revolving Credit Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Obligations Absolute. The obligation of the Borrower to reimburse the L/C Issuer for each drawing under each Letter of Credit and to repay each L/C Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other Loan Document;

(ii) the existence of any claim, counterclaim, setoff, defense or other right that the Borrower or any Subsidiary may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the L/C Issuer or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) any payment by the L/C Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the L/C Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law; or

(v) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower or any of its Subsidiaries.

The Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Borrower's instructions or other irregularity, the Borrower will immediately notify the L/C Issuer. The Borrower shall, to the extent permitted by law, be conclusively deemed to have waived any such claim against the L/C Issuer and its correspondents unless such notice is given as aforesaid.

(f) Role of L/C Issuer. Each Lender and the Borrower agree that, in paying any drawing under a Letter of Credit, the L/C Issuer shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the L/C Issuer, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of the L/C Issuer shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Revolving Credit Lenders or the Required Revolving Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Issuer Document. The Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided, however, that this assumption is not intended to, and shall not, preclude the Borrower's pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the L/C Issuer, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of the L/C Issuer shall be liable or responsible for any of the matters described in clauses (i) through (v) of Section 2.03(e); provided, however, that anything in such clauses to the contrary notwithstanding, the Borrower may have a claim against the L/C Issuer, and the L/C Issuer may be liable to the Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Borrower which the Borrower proves were caused by the L/C Issuer's willful misconduct or gross negligence or the L/C Issuer's willful or grossly negligent failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, the L/C Issuer may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and the L/C Issuer shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason.

(g) Cash Collateral. If any Event of Default shall occur and be continuing, upon the request of the Administrative Agent, (i) if the L/C Issuer has honored any full or partial drawing request under any Letter of Credit and such drawing has resulted in an L/C Borrowing, or (ii) if, as of the Letter of Credit Expiration Date, any L/C Obligation for any reason remains outstanding, the Borrower shall, in each case, immediately Cash Collateralize the then Outstanding Amount of all L/C Obligations. Sections 2.05 and 8.02(c) set forth certain additional requirements to deliver Cash Collateral hereunder. For purposes of this Section 2.03, Section 2.05 and Section 8.02(c), "Cash Collateralize" means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of the L/C Issuer and the Lenders, as collateral for the L/C Obligations, cash or deposit account balances pursuant to documentation in form and substance reasonably satisfactory to the Administrative Agent and the L/C Issuer (which documents are hereby consented to by the Lenders), and "Cash Collateral" means all cash

and deposit account balances so pledged and deposited. Derivatives of such term have corresponding meanings. The Borrower hereby grants to the Administrative Agent, for the benefit of the L/C Issuer and the Lenders, a security interest in all such cash, deposit accounts and all balances therein and all proceeds of the foregoing. Cash Collateral shall be maintained in blocked, deposit accounts at Bank of America. Other than any interest earned on the investment of such deposits in Cash Equivalents, such deposits shall not bear interest. If at any time the Administrative Agent determines that any funds held as Cash Collateral are subject to any right or claim of any Person other than the Administrative Agent or that the total amount of such funds is less than the aggregate Outstanding Amount of all L/C Obligations, the Borrower will, forthwith upon demand by the Administrative Agent, pay to the Administrative Agent, as additional funds to be deposited as Cash Collateral, an amount equal to the excess of (x) such aggregate Outstanding Amount over (y) the total amount of funds, if any, then held as Cash Collateral that the Administrative Agent determines to be free and clear of any such right and claim. Upon the drawing of any Letter of Credit for which funds are on deposit as Cash Collateral, such funds shall be applied, to the extent permitted under applicable Laws, to reimburse the L/C Issuer.

(h) Applicability of ISP. Unless otherwise expressly agreed by the L/C Issuer and the Borrower when a Letter of Credit is issued the rules of the ISP shall apply to each Letter of Credit.

(i) Letter of Credit Fees. The Borrower shall pay to the Administrative Agent for the account of each Revolving Credit Lender in accordance with its Applicable Revolving Credit Percentage a Letter of Credit fee (the "Letter of Credit Fee") for each Letter of Credit at a rate per annum equal to the Applicable Rate times the daily amount available to be drawn under such Letter of Credit. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. Letter of Credit Fees shall be (i) due and payable on the first Business Day after the end of each February, May, August and November, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand and (ii) computed on a quarterly basis in arrears. If there is any change in the Applicable Rate during any quarter, the daily amount available to be drawn under each Letter of Credit shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect. Notwithstanding anything to the contrary contained herein, upon the request of the Required Revolving Lenders, while any Event of Default exists, all Letter of Credit Fees shall accrue at the Default Rate.

(j) Fronting Fee and Documentary and Processing Charges Payable to L/C Issuer. The Borrower shall pay directly to the L/C Issuer for its own account a fronting fee with respect to each Letter of Credit, at the rate per annum equal to 0.125%, computed on the daily amount available to be drawn under such Letter of Credit on a quarterly basis in arrears. Such fronting fee shall be due and payable on the tenth Business Day after the end of each February, May, August and November, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. In addition, the Borrower shall pay directly to the L/C Issuer for its own account the customary

issuance, presentation, amendment and other processing fees, and other standard costs and charges, of the L/C Issuer relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable on demand and are nonrefundable.

(k) Conflict with Issuer Documents. In the event of any conflict between the terms hereof and the terms of any Issuer Document, the terms hereof shall control.

(l) Letters of Credit Issued for Subsidiaries. Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, a Subsidiary, the Borrower shall be obligated to reimburse the L/C Issuer hereunder for any and all drawings under such Letter of Credit. The Borrower hereby acknowledges that the issuance of Letters of Credit for the account of Subsidiaries inures to the benefit of the Borrower, and that the Borrower's business derives substantial benefits from the businesses of such Subsidiaries.

2.04 Swing Line Loans. (a) The Swing Line. Subject to the terms and conditions set forth herein, the Swing Line Lender agrees, in reliance upon the agreements of the other Lenders set forth in this Section 2.04, to make loans (each such loan, a "Swing Line Loan") to the Borrower from time to time on any Business Day during the Availability Period in an aggregate amount not to exceed at any time outstanding the amount of the Swing Line Sublimit, notwithstanding the fact that such Swing Line Loans, when aggregated with the Applicable Revolving Credit Percentage of the Outstanding Amount of Revolving Credit Loans and L/C Obligations of the Lender acting as Swing Line Lender, may exceed the amount of such Lender's Revolving Credit Commitment; provided, however, that after giving effect to any Swing Line Loan, (i) the Total Revolving Credit Outstandings shall not exceed the Revolving Credit Facility at such time, and (ii) the aggregate Outstanding Amount of the Revolving Credit Loans of any Revolving Credit Lender at such time, plus such Revolving Credit Lender's Applicable Revolving Credit Percentage of the Outstanding Amount of all L/C Obligations at such time, plus such Revolving Credit Lender's Applicable Revolving Credit Percentage of the Outstanding Amount of all Swing Line Loans at such time shall not exceed such Lender's Revolving Credit Commitment, and provided further that the Borrower shall not use the proceeds of any Swing Line Loan to refinance any outstanding Swing Line Loan. Within the foregoing limits, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.04, prepay under Section 2.05, and reborrow under this Section 2.04. Each Swing Line Loan shall bear interest only at a rate based on the Base Rate. Immediately upon the making of a Swing Line Loan, each Revolving Credit Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Swing Line Lender a risk participation in such Swing Line Loan in an amount equal to the product of such Revolving Credit Lender's Applicable Revolving Credit Percentage times the amount of such Swing Line Loan.

(b) Borrowing Procedures. Each Swing Line Borrowing shall be made upon the Borrower's irrevocable notice to the Swing Line Lender and the Administrative Agent, which may be given by telephone. Each such notice must be received by the Swing Line Lender and the Administrative Agent not later than 1:00 p.m. on the requested borrowing date, and shall specify (i) the amount to be borrowed, which shall be a minimum of \$100,000, and (ii) the requested borrowing date, which shall be a Business Day. Each such telephonic notice must be

confirmed promptly by delivery to the Swing Line Lender and the Administrative Agent of a written Swing Line Loan Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Promptly after receipt by the Swing Line Lender of any telephonic Swing Line Loan Notice, the Swing Line Lender will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has also received such Swing Line Loan Notice and, if not, the Swing Line Lender will notify the Administrative Agent (by telephone or in writing) of the contents thereof. Unless the Swing Line Lender has received notice (by telephone or in writing) from the Administrative Agent (including at the request of any Revolving Credit Lender) prior to 2:00 p.m. on the date of the proposed Swing Line Borrowing (A) directing the Swing Line Lender not to make such Swing Line Loan as a result of the limitations set forth in the first proviso to the first sentence of Section 2.04(a), or (B) that one or more of the applicable conditions specified in Article IV is not then satisfied, then, subject to the terms and conditions hereof, the Swing Line Lender will, not later than 3:00 p.m. on the borrowing date specified in such Swing Line Loan Notice, make the amount of its Swing Line Loan available to the Borrower at its office either by (i) crediting the account of the Borrower on the books of the Swing Line Lender or (ii) wire transfer of such funds in immediately available funds, in each case in accordance with instructions provided to the Swing Line Lender by the Borrower.

(c) Refinancing of Swing Line Loans. (i) The Swing Line Lender at any time in its sole and absolute discretion may request, on behalf of the Borrower (which hereby irrevocably authorizes the Swing Line Lender to so request on its behalf), that each Revolving Credit Lender make a Base Rate Loan in an amount equal to such Lender's Applicable Revolving Credit Percentage of the amount of Swing Line Loans then outstanding. Such request shall be made in writing (which written request shall be deemed to be a Committed Loan Notice for purposes hereof) and in accordance with the requirements of Section 2.02, without regard to the minimum and multiples specified therein for the principal amount of Base Rate Loans, but subject to the unutilized portion of the Revolving Credit Facility and the conditions set forth in Section 4.02. The Swing Line Lender shall furnish the Borrower with a copy of the applicable Committed Loan Notice promptly after delivering such notice to the Administrative Agent. Each Revolving Credit Lender shall make an amount equal to its Applicable Revolving Credit Percentage of the amount specified in such Committed Loan Notice available to the Administrative Agent in immediately available funds for the account of the Swing Line Lender at the Administrative Agent's Office not later than 1:00 p.m. on the day specified in such Committed Loan Notice, whereupon, subject to Section 2.04(c)(ii), each Revolving Credit Lender that so makes funds available shall be deemed to have made a Base Rate Loan to the Borrower in such amount. The Administrative Agent shall remit the funds so received to the Swing Line Lender.

(ii) If for any reason any Swing Line Loan cannot be refinanced by such a Revolving Credit Borrowing in accordance with Section 2.04(c)(i), the request for Base Rate Loans submitted by the Swing Line Lender as set forth herein shall be deemed to be a request by the Swing Line Lender that each of the Revolving Credit Lenders fund its risk participation in the relevant Swing Line Loan and each Revolving Credit Lender's payment to the Administrative Agent for the account of the Swing Line Lender pursuant to Section 2.04(c)(i) shall be deemed payment in respect of such participation.

(iii) If any Revolving Credit Lender fails to make available to the Administrative Agent for the account of the Swing Line Lender any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.04(c) by the time specified in Section 2.04(c)(i), the Swing Line Lender shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the Swing Line Lender at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by the Swing Line Lender in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Swing Line Lender in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's committed Loan included in the relevant committed Borrowing or funded participation in the relevant Swing Line Loan, as the case may be. A certificate of the Swing Line Lender submitted to any Lender (through the Administrative Agent) with respect to any amounts owing under this clause (iii) shall be conclusive absent manifest error.

(iv) Each Revolving Credit Lender's obligation to make Revolving Credit Loans or to purchase and fund risk participations in Swing Line Loans pursuant to this Section 2.04(c) shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the Swing Line Lender, the Borrower or any other Person for any reason whatsoever, (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Revolving Credit Lender's obligation to make Revolving Credit Loans pursuant to this Section 2.04(c) is subject to the conditions set forth in Section 4.02. No such funding of risk participations shall relieve or otherwise impair the obligation of the Borrower to repay Swing Line Loans, together with interest as provided herein.

(d) Repayment of Participations. (i) At any time after any Revolving Credit Lender has purchased and funded a risk participation in a Swing Line Loan, if the Swing Line Lender receives any payment on account of such Swing Line Loan, the Swing Line Lender will distribute to such Revolving Credit Lender its Applicable Revolving Credit Percentage thereof in the same funds as those received by the Swing Line Lender.

(ii) If any payment received by the Swing Line Lender in respect of principal or interest on any Swing Line Loan is required to be returned by the Swing Line Lender under any of the circumstances described in Section 10.05 (including pursuant to any settlement entered into by the Swing Line Lender in its discretion), each Revolving Credit Lender shall pay to the Swing Line Lender its Applicable Revolving Credit Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned, at a rate per annum equal to the Federal Funds Rate. The Administrative Agent will make such demand upon the request of the Swing Line Lender. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Interest for Account of Swing Line Lender. The Swing Line Lender shall be responsible for invoicing the Borrower for interest on the Swing Line Loans. Until a

Revolving Credit Lender funds its Base Rate Loan or risk participation pursuant to this Section 2.04 to refinance such Revolving Credit Lender's Applicable Revolving Credit Percentage of any Swing Line Loan, interest in respect of such Applicable Revolving Credit Percentage shall be solely for the account of the Swing Line Lender.

(f) Payments Directly to Swing Line Lender. The Borrower shall make all payments of principal and interest in respect of the Swing Line Loans directly to the Swing Line Lender.

2.05 Prepayments. (a) Optional. (i) The Borrower may, upon notice to the Administrative Agent, at any time or from time to time voluntarily prepay Term Loans and Revolving Credit Loans in whole or in part without premium or penalty; provided that (A) such notice must be received by the Administrative Agent not later than 11:00 a.m. (1) three Business Days prior to any date of prepayment of Eurodollar Rate Loans and (2) on the date of prepayment of Base Rate Loans; (B) any prepayment of Eurodollar Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof; and (C) any prepayment of Base Rate Loans shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof or, in each case, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment and the Type(s) of Loans to be prepaid and, if Eurodollar Rate Loans are to be prepaid, the Interest Period(s) of such Loans. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's ratable portion of such prepayment (based on such Lender's Applicable Percentage in respect of the relevant Facility). If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein; provided that any such notice of a prepayment to be made in connection with any refinancing of all of the Facilities with the proceeds of such refinancing or of any incurrence of Indebtedness, may be, if expressly so stated to be, contingent upon the consummation of such refinancing or incurrence (provided further that the failure of such contingency shall not relieve the Borrower from its obligations in respect thereof under Section 3.05). Any prepayment of a Eurodollar Rate Loan shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05. Each prepayment of the outstanding Term Loans pursuant to this Section 2.05(a) shall be applied (x) ratably to the Term A Facility and the Term B Facility and (y) to the principal repayment installments thereof on a pro-rata basis, and each such prepayment shall be paid to the Lenders in accordance with their respective Applicable Percentages in respect of each of the relevant Facilities; provided that such prepayment shall be applied first to Base Rate Loans to the full extent thereof before application to Eurodollar Rate Loans, in each case in a manner that minimizes the amount of any payments required to be made by the Borrower pursuant to Section 3.05.

(ii) The Borrower may, upon notice to the Swing Line Lender (with a copy to the Administrative Agent), at any time or from time to time, voluntarily prepay Swing Line Loans in whole or in part without premium or penalty; provided that (A) such notice must be received by the Swing Line Lender and the Administrative Agent not later than 1:00 p.m. on the date of the prepayment, and (B) any such prepayment shall be in a minimum principal amount of \$100,000. Each such notice shall specify the date and amount of such prepayment. If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein.

(b) Mandatory. (i) Within five Business Days after financial statements have been delivered pursuant to Section 6.01(a) (commencing with the delivery of the financial statements for the fiscal year ended November 30, 2008) and the related Compliance Certificate has been delivered pursuant to Section 6.02(a), the Borrower shall prepay an aggregate principal amount of Term Loans equal to the excess (if any) of (A) 50% (such percentage as it may be reduced as described below, the “ECF Percentage”) of Excess Cash Flow for the fiscal year covered by such financial statements over (B) the sum of (1) the aggregate principal amount of Term Loans voluntarily prepaid pursuant to Section 2.05(a)(i) during such fiscal year and (2) solely to the extent the amount of the Revolving Credit Commitments are reduced pursuant to Section 2.06 in connection therewith (and solely to the extent of the amount of such reduction), the aggregate principal amount of Revolving Credit Loans voluntarily prepaid pursuant to Section 2.05(a)(i) during such fiscal year (such prepayments to be applied as set forth in clause (iv) below); provided that (A) the ECF Percentage shall be 25% if the Consolidated Leverage Ratio as at the end of the fiscal year covered by such financial statements is less than or equal to 2.50:1.00 and greater than 2.00:1.00 and (B) the ECF Percentage shall be 0% if the Consolidated Leverage Ratio as at the end of the fiscal year covered by such financial statements is less than or equal to 2.00:1.00.

(ii) If (A) the Borrower or any of its Subsidiaries Disposes of any property (other than any Disposition of any property permitted by Section 7.05 (other than clause (h) thereof)) or (B) any Casualty Event occurs, which results in the realization by such Person of Net Cash Proceeds, the Borrower shall, within five Business Days of receipt of such Net Cash Proceeds, prepay an aggregate principal amount of Term Loans equal to 100% of such Net Cash Proceeds (such prepayments to be applied as set forth in clause (iv) below); provided, however, that, with respect to any Net Cash Proceeds realized under a Disposition or a Casualty Event described in this Section 2.05(b)(ii), at the election of the Borrower (as notified by the Borrower to the Administrative Agent on or prior to the fifth Business Day after the date of receipt of such Net Cash Proceeds), and so long as no Event of Default shall have occurred and be continuing, the Borrower or such Subsidiary may reinvest all or any portion of such Net Cash Proceeds in assets useful for its business (including any Permitted Acquisitions) within (A) 9 months after the receipt of such Net Cash Proceeds or (B) if the Borrower or such Subsidiary enters into a contract to reinvest all or any portion of such Net Cash Proceeds in such assets within 9 months of the receipt thereof, 12 months after the receipt of such Net Cash Proceeds (in each case, as certified by the Borrower in writing to the Administrative Agent); and provided further, however, that any Net Cash Proceeds not subject to such definitive agreement or so reinvested (or no longer intended to be so reinvested) shall be immediately applied to the prepayment of the Loans as set forth in this Section 2.05(b)(ii).

(iii) Upon the incurrence or issuance by the Borrower or any of its Subsidiaries of any Indebtedness (other than Indebtedness expressly permitted to be incurred or issued pursuant to Section 7.02), the Borrower shall prepay an aggregate principal amount of Term Loans equal to 100% of all Net Cash Proceeds received therefrom immediately upon receipt thereof by the Borrower or such Subsidiary (such prepayments to be applied as set forth in clause (iv) below).

(iv) Each prepayment of Loans pursuant to the foregoing provisions of this Section 2.05(b) shall be applied ratably to each of the Term A Facility and the Term B Facility and to the principal repayment installments thereof on a pro-rata basis; provided that such prepayment shall be applied first to Base Rate Loans to the full extent thereof before application to Eurodollar Rate Loans, in each case in a manner that minimizes the amount of any payments required to be made by the Borrower pursuant to Section 3.05.

2.06 Termination or Reduction of Commitments. (a) Optional. The Borrower may, upon notice to the Administrative Agent, terminate the Revolving Credit Facility, the Letter of Credit Sublimit or the Swing Line Sublimit, or from time to time permanently reduce the Revolving Credit Facility, the Letter of Credit Sublimit or the Swing Line Sublimit; provided that (i) any such notice shall be received by the Administrative Agent not later than 11:00 a.m. three Business Days prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of \$1,000,000 or any whole multiple of \$1,000,000 in excess thereof, (iii) the Borrower shall not terminate or reduce (A) the Revolving Credit Facility if, after giving effect thereto and to any concurrent prepayments hereunder, the Total Revolving Credit Outstandings would exceed the Revolving Credit Facility, (B) the Letter of Credit Sublimit if, after giving effect thereto, the Outstanding Amount of L/C Obligations not fully Cash Collateralized hereunder would exceed the Letter of Credit Sublimit, or (C) the Swing Line Sublimit if, after giving effect thereto and to any concurrent prepayments hereunder, the Outstanding Amount of Swing Line Loans would exceed the Letter of Credit Sublimit and (iv) any such notice of termination to be made in connection with any refinancing of all of the Facilities with the proceeds of such refinancing or of any incurrence of Indebtedness, may be, if expressly so stated to be, contingent upon the consummation of such refinancing or incurrence (provided that the failure to terminate or reduce as a result of the failure of such contingency shall not relieve the Borrower from its obligations in respect thereof under Section 3.05).

(b) Mandatory. (i) The aggregate Term A Commitments shall be automatically and permanently reduced to zero immediately after the Term A Borrowing.

(ii) The aggregate Term B Commitments shall be automatically and permanently reduced to zero immediately after the Term B Borrowing.

(iii) If after giving effect to any reduction or termination of Revolving Credit Commitments under this Section 2.06, the Letter of Credit Sublimit or the Swing Line Sublimit exceeds the Revolving Credit Facility at such time, the Letter of Credit Sublimit or the Swing Line Sublimit, as the case may be, shall be automatically reduced by the amount of such excess.

(c) Application of Commitment Reductions; Payment of Fees. The Administrative Agent will promptly notify the Lenders of any termination or reduction of the Letter of Credit Sublimit, Swing Line Sublimit or the Revolving Credit Commitment under this Section 2.06. Upon any reduction of the Revolving Credit Commitments, the Revolving Credit Commitment of each Revolving Credit Lender shall be reduced by such Lender's Applicable Revolving Credit Percentage of such reduction amount. All fees in respect of the Revolving Credit Facility accrued until the effective date of any termination of the Revolving Credit Facility shall be paid on the effective date of such termination.

2.07 Repayment of Loans. (a) Term A Loans. The Borrower shall repay to the Administrative Agent for the ratable account of the Term A Lenders the aggregate principal amount of all Term A Loans outstanding on the following dates in the respective amounts set forth opposite such dates (which amounts shall be reduced as a result of the application of prepayments in accordance with Section 2.05):

<u>Date</u>	<u>Amount</u>
February 29, 2008	\$ 5,000,000
May 31, 2008	\$ 5,000,000
August 31, 2008	\$ 5,000,000
November 30, 2008	\$ 5,000,000
February 28, 2009	\$ 5,000,000
May 31, 2009	\$ 5,000,000
August 31, 2009	\$ 5,000,000
November 30, 2009	\$ 5,000,000
February 28, 2010	\$10,000,000
May 31, 2010	\$10,000,000
August 31, 2010	\$10,000,000
November 30, 2010	\$10,000,000
February 28, 2011	\$10,000,000
May 31, 2011	\$10,000,000
August 31, 2011	\$10,000,000
November 30, 2011	\$10,000,000
February 29, 2012	\$10,000,000
May 31, 2012	\$10,000,000
August 31, 2012	\$10,000,000
Maturity Date	\$50,000,000

provided, however, that the final principal repayment installment of the Term A Loans shall be repaid on the Maturity Date for the Term A Facility and in any event shall be in an amount equal to the aggregate principal amount of all Term A Loans outstanding on such date; provided, further, that if any date set forth in this Section 2.07(a) is not a Business Day, then such date shall be the next preceding Business Day.

(b) Term B Loans. The Borrower shall repay to the Administrative Agent for the ratable account of the Term B Lenders (i) on the last Business Day of each February, May, August and November, commencing with the last Business Day of February, 2008, an aggregate principal amount equal to 0.25% of the aggregate principal amount of all Term B Loans outstanding on the Closing Date (which payments shall be reduced as a result of the application of prepayments in accordance with Section 2.05) and (ii) on the Maturity Date for the Term B Facility, the aggregate principal amount of all Term B Loans outstanding on such date.

(c) Revolving Credit Loans. The Borrower shall repay to the Administrative Agent for the ratable account of the Revolving Credit Lenders on the Maturity Date for the Revolving Credit Facility the aggregate principal amount of all Revolving Credit Loans outstanding on such date.

(d) Swing Line Loans. The Borrower shall repay each Swing Line Loan on the earlier to occur of (i) the date ten Business Days after such Loan is made and (ii) the Maturity Date for the Revolving Credit Facility.

2.08 Interest. (a) Subject to the provisions of Section 2.08(b), (i) each Eurodollar Rate Loan under a Facility shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Eurodollar Rate for such Interest Period plus the Applicable Rate for such Facility; (ii) each Base Rate Loan under a Facility shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate for such Facility; and (iii) each Swing Line Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate for the Revolving Credit Facility minus the Applicable Fee Rate.

(b) (i) If any amount payable by the Borrower under any Loan Document is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, such amount shall thereafter, for so long as such overdue amount shall remain unpaid, bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(ii) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(c) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

2.09 Fees. In addition to certain fees described in Sections 2.03(i) and (j):

(a) Commitment Fee. The Borrower shall pay to the Administrative Agent for the account of each Revolving Credit Lender in accordance with its Applicable Revolving Credit Percentage, a commitment fee equal to the Applicable Fee Rate times the actual daily amount by which the Revolving Credit Facility exceeds the sum of (i) the Outstanding Amount of Revolving Credit Loans (excluding Swing Line Loans) and (ii) the Outstanding Amount of L/C Obligations; provided, however, that any commitment fee accrued with respect to any of the Commitments of a Defaulting Lender during the period prior to the time such Lender became a Defaulting Lender and unpaid at such time shall not be payable by the Borrower so long as such Lender shall be a Defaulting Lender except to the extent that such commitment fee shall otherwise have been due and payable by the Borrower prior to such time; and provided further that no commitment fee shall accrue on any of the Commitments of a Defaulting Lender so long as such Lender shall be a Defaulting Lender. The commitment fee shall accrue at all times during the

Availability Period, including at any time during which one or more of the conditions in Article IV is not met, and shall be due and payable quarterly in arrears on the last Business Day of each February, May, August and November, commencing the last Business Day of February 2008, and on the last day of the Availability Period for the Revolving Credit Facility. The commitment fee shall be calculated quarterly in arrears.

(b) Other Fees. (i) The Borrower shall pay to the Lead Arrangers and the Administrative Agent for their own respective accounts fees in the amounts and at the times specified in the Fee Letter. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

(ii) The Borrower shall pay to the Lenders such fees as shall have been separately agreed upon in writing in the amounts and at the times so specified. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

2.10 Computation of Interest and Fees; Retroactive Adjustments of Applicable Rate. (a) All computations of interest for Base Rate Loans when the Base Rate is determined by Bank of America's "prime rate" shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid, provided that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.12(a), bear interest for one day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

(b) If, as a result of any restatement of or other adjustment to the financial statements of the Borrower or for any other reason, the Borrower or the Lenders determine that (i) the Consolidated Leverage Ratio as calculated by the Borrower as of any applicable date was inaccurate and (ii) a proper calculation of the Consolidated Leverage Ratio would have resulted in higher pricing for such period, the Borrower shall immediately and retroactively be obligated to pay to the Administrative Agent for the account of the applicable Lenders, promptly on demand by the Administrative Agent (or, after the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under the Bankruptcy Code of the United States, automatically and without further action by the Administrative Agent, any Lender or the L/C Issuer), an amount equal to the excess of the amount of interest and fees that should have been paid for such period over the amount of interest and fees actually paid for such period. This paragraph shall not limit the rights of the Administrative Agent, any Lender or the L/C Issuer, as the case may be, under Sections 2.03(c)(iii), 2.03(i) or 2.08(b) or under Article VIII. The Borrower's obligations under this paragraph shall survive the termination of the Aggregate Commitments and the repayment of all other Obligations hereunder.

2.11 Evidence of Debt. (a) The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and by the Administrative Agent in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be conclusive absent manifest error of the

amount of the Credit Extensions made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Note, which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

(b) In addition to the accounts and records referred to in Section 2.11(a), each Lender and the Administrative Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Lender of participations in Letters of Credit and Swing Line Loans. In the event of any conflict between the accounts and records maintained by the Administrative Agent and the accounts and records of any Lender in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

2.12 Payments Generally; Administrative Agent's Clawback. (a) General. All payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars and in immediately available funds not later than 2:00 p.m. on the date specified herein. The Administrative Agent will promptly distribute to each Lender its Applicable Percentage in respect of the relevant Facility (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after 2:00 p.m. shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected on computing interest or fees, as the case may be.

(b) (i) Funding by Lenders; Presumption by Administrative Agent. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing of Eurodollar Rate Loans (or, in the case of any Borrowing of Base Rate Loans, prior to 12:00 noon on the date of such Borrowing) that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with Section 2.02 (or, in the case of a Borrowing of Base Rate Loans, that such Lender has made such share available in accordance with and at the time required by Section 2.02) and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount in immediately available funds with

interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (A) in the case of a payment to be made by such Lender, the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing, and (B) in the case of a payment to be made by the Borrower, the interest rate applicable to Base Rate Loans. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(ii) Payments by Borrower; Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the L/C Issuer hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Appropriate Lenders or the L/C Issuer, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Appropriate Lenders or the L/C Issuer, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or the L/C Issuer, in immediately available funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

A notice of the Administrative Agent to any Lender or the Borrower with respect to any amount owing under this subsection (b) shall be conclusive, absent manifest error.

(c) Failure to Satisfy Conditions Precedent. If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the applicable Credit Extension set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall promptly return such funds (in like funds as received from such Lender) to such Lender, without interest.

(d) Obligations of Lenders Several. The obligations of the Lenders hereunder to make Term Loans and Revolving Credit Loans, to fund participations in Letters of Credit and Swing Line Loans and to make payments pursuant to Section 10.04(c) are several and not joint. The failure of any Lender to make any Loan, to fund any such participation or to make any payment under Section 10.04(c) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan, to purchase its participation or to make its payment under Section 10.04(c).

(e) Funding Source. Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

(f) Insufficient Funds. If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, L/C Borrowings, interest and fees then due hereunder, such funds shall be applied (i) first, toward payment of interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, and (ii) second, toward payment of principal and L/C Borrowings then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal and L/C Borrowings then due to such parties.

2.13 Sharing of Payments by Lenders. If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of (a) Obligations in respect of any the Facilities due and payable to such Lender hereunder and under the other Loan Documents at such time in excess of its ratable share (according to the proportion of (i) the amount of such Obligations due and payable to such Lender at such time to (ii) the aggregate amount of the Obligations in respect of the Facilities due and payable to all Lenders hereunder and under the other Loan Documents at such time) of payments on account of the Obligations in respect of the Facilities due and payable to all Lenders hereunder and under the other Loan Documents at such time obtained by all the Lenders at such time or (b) Obligations in respect of any of the Facilities owing (but not due and payable) to such Lender hereunder and under the other Loan Documents at such time in excess of its ratable share (according to the proportion of (i) the amount of such Obligations owing (but not due and payable) to such Lender at such time to (ii) the aggregate amount of the Obligations in respect of the Facilities owing (but not due and payable) to all Lenders hereunder and under the other Loan Documents at such time) of payment on account of the Obligations in respect of the Facilities owing (but not due and payable) to all Lenders hereunder and under the other Loan Documents at such time obtained by all of the Lenders at such time then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Loans and subparticipations in L/C Obligations and Swing Line Loans of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of Obligations in respect of the Facilities then due and payable to the Lenders or owing (but not due and payable) to the Lenders, as the case may be, provided that:

(i) if any such participations or subparticipations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations or subparticipations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this Section shall not be construed to apply to (A) any payment made by the Borrower pursuant to and in accordance with the express terms of this

Agreement or (B) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or subparticipations in L/C Obligations or Swing Line Loans to any assignee or participant.

The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

2.14 Increase in Commitments. (a) So long as no Default or Event of Default has occurred and is continuing or would result therefrom, upon notice to the Administrative Agent, at any time after the Closing Date, the Borrower may request one or more Additional Term A Commitments, one or more Additional Term B Commitments, or one or more Additional Revolving Credit Commitments (it being understood and agreed that (i) at the election of the Borrower, such additional commitments in respect of any term loans may be implemented through the addition of additional new tranches of such loans instead of being implemented as increases in the applicable Commitments and (ii) if the Borrower makes such election, the provisions of this Section shall be read in a manner that permits such election to be implemented; provided that (x) the final maturity date of any such new tranche of term loans shall be no earlier than the Maturity Date for the Term A Loans and (y) the Weighted Average Life to Maturity of any such new tranche of term loans shall be no shorter than the remaining Weighted Average Life to Maturity of the Term A Loans); provided that (i) after giving effect to any such addition, the aggregate amount of Additional Term A Commitments, Additional Term B Commitments and Additional Revolving Credit Commitments that have been added pursuant to this Section 2.14 shall not exceed \$150,000,000; (ii) any such addition shall be in an aggregate amount of \$10,000,000 or any whole multiple of \$500,000 in excess thereof (provided that such amount may be less than \$10,000,000 if such amount represents all remaining availability under the aggregate limit in respect of Additional Term A Commitments, Additional Term B Commitments and Additional Revolving Credit Commitments set forth in clause (i) to this proviso), (iii) the final maturity date of any Additional Term A Loans shall be no earlier than the Maturity Date for the Term A Loans, (iv) the final maturity date of any Additional Term B Loans shall be no earlier than the Maturity Date for the Term B Loans, (v) the weighted average life to maturity of the Additional Term A Loans shall be no shorter than the remaining weighted average life to maturity of the Term A Loans, (vi) the weighted average life to maturity of the Additional Term B Loans shall be no shorter than the remaining weighted average life to maturity of the Term B Loans, (vii) no Lender shall be required to participate in the Additional Term A Commitments, the Additional Term B Commitments or the Additional Revolving Credit Commitments, (viii) the interest rate and amortization schedule applicable to the Additional Term A Commitments and the Additional Term B Commitments shall be determined by the Borrower and the lenders thereof and (ix) the Additional Term A Loans and the Additional Term B Loans shall rank pari passu in right of payment and of security with the Revolving Credit Loans and the Term Loans.

(b) If any Additional Term A Commitments, Additional Term B Commitments or Additional Revolving Credit Commitments are added in accordance with this Section 2.14, the Administrative Agent and the Borrower shall determine the effective date (the

“Additional Commitments Effective Date”) of such addition. Additional Term A Loans and/or Additional Term B Loans may be made, and Additional Revolving Credit Commitments may be provided, by any existing Lender (and each existing Term A Lender will have the right, but not an obligation, to make a portion of any Additional Term A Loans, each existing Term B Lender will have the right, but not an obligation, to make a portion of any Additional Term B Loans and each existing Revolving Credit Lender will have the right, but not an obligation, to provide a portion of any Revolving Credit Commitments, in each case on terms permitted in this Section 2.14 and otherwise on terms reasonably acceptable to the Administrative Agent) or by any other bank or other financial institution (any such other bank or other financial institution being called an “Additional Lender”), provided that the Administrative Agent shall have consented (such consent not to be unreasonably withheld) to such Lender’s or Additional Lender’s providing such Additional Revolving Credit Commitments if such consent would be required under Section 10.06(b) for an assignment of Revolving Credit Commitments to such Lender or Additional Lender. As a condition precedent to such addition, the Borrower shall deliver to the Administrative Agent a certificate dated as of the Additional Commitments Effective Date signed by a Responsible Officer of the Borrower certifying that, before and after giving effect to such increase, (i) the representations and warranties contained in Article V and the other Loan Documents are true and correct in all material respects on and as of the Additional Commitments Effective Date, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall have been true and correct in all material respects as of such earlier date, and except that for purposes of this Section 2.14(b), the representations and warranties contained in Section 5.05(a) and Section 5.05(b) shall be deemed to refer to the most recent financial statements furnished pursuant to subsections (a) and (b), respectively, of Section 6.01, (ii) no Default or Event of Default exists immediately before or immediately after giving effect to such addition, and (iii) the Borrower shall be in compliance, on a Pro Forma Basis, with the financial covenants set forth in Section 7.11 after giving effect to the making of Additional Term A Loans, Additional Term B Loans or Additional Revolving Credit Loans, as applicable. On each Additional Commitments Effective Date, each applicable Lender or other Person which is providing an Additional Term A Commitment, an Additional Term B Commitment or an Additional Revolving Credit Commitment (i) in the case of any Additional Revolving Credit Commitment, shall become a “Revolving Credit Lender” for all purposes of this Agreement and the other Loan Documents, (ii) in the case of any Additional Term A Commitment, shall make an Additional Term A Loan to the Borrower in a principal amount equal to such Lender’s or Person’s Additional Term A Commitment and (iii) in the case of any Additional Term B Commitment, shall make an Additional Term B Commitment to the Borrower in a principal amount equal to such Lender’s or Person’s Additional Term B Commitment. Any Additional Revolving Credit Loan shall be a “Revolving Credit Loan” for all purposes of this Agreement and the other Loan Documents. The Borrower shall prepay any Revolving Credit Loans outstanding on the Additional Commitments Effective Date with respect to any Additional Revolving Credit Commitment (and pay any additional amounts required pursuant to Section 3.05) to the extent necessary to keep the outstanding Revolving Credit Loans ratable with any revised Applicable Revolving Credit Percentages arising from any nonratable increase in the Revolving Credit Commitments.

(c) Any other terms of and documentation entered into in respect of any Additional Term A Loans or Additional Term B Loans made or any Additional Revolving Credit Commitments provided, in each case pursuant to this Section 2.14, shall be consistent with the

Term A Loans, Term B Loans or the Revolving Credit Commitments, as the case may be, (including with respect to voluntary and mandatory prepayments), other than as contemplated by Sections 2.14(a)(iii), (iv), (v), (vi) or (viii) above; provided that such other terms and documentation in respect of any Additional Term A Loans or any Additional Term B Loans may be materially different from those of the Term A Loans or Term B Loans, as the case may be, to the extent such difference shall be reasonably satisfactory to the Administrative Agent. Any Additional Term A Loans, Additional Term B Loans or Additional Revolving Credit Commitments, as applicable, made or provided pursuant to this Section 2.14 shall be evidenced by one or more entries in the accounts or records maintained by the Administrative Agent in accordance with the provisions set forth in Section 2.11.

(d) This Section 2.14 shall supersede any provisions in Section 2.13 or Section 10.01 to the contrary. Notwithstanding any other provision of any Loan Document, the Loan Documents may be amended by the Administrative Agent and the Loan Parties, if necessary, to provide for terms applicable to each Additional Term A Commitment and/or Additional Term B Commitment and/or Additional Revolving Credit Commitment, as the case may be.

ARTICLE III TAXES, YIELD PROTECTION AND ILLEGALITY

3.01 Taxes. (a) Payments Free of Taxes. Any and all payments by or on account of any obligation of the Borrower hereunder or under any other Loan Document shall be made free and clear of and without reduction or withholding for any Indemnified Taxes or Other Taxes, provided that if the Borrower shall be required by applicable law to deduct any Indemnified Taxes (including any Other Taxes) from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) the Administrative Agent, any Lender or the L/C Issuer, as the case may be, receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower shall make such deductions and (iii) the Borrower shall timely pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law.

(b) Payment of Other Taxes by the Borrower. Without limiting the provisions of subsection (a) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) Indemnification by the Borrower. The Borrower shall indemnify the Administrative Agent, each Lender and the L/C Issuer, within 10 Business Days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 3.01) paid by the Administrative Agent, such Lender or the L/C Issuer, as the case may be, and, without duplication, any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender or the L/C Issuer (with a copy to the Administrative Agent), or by the Administrative Agent on its own

behalf or on behalf of a Lender or the L/C Issuer, shall be conclusive absent manifest error. After the Administrative Agent, any Lender or the L/C Issuer (as the case may be) learns of the imposition of any Indemnified Taxes or Other Taxes, the Administrative Agent, any Lender or the L/C Issuer (as the case may be) will act in good faith to promptly notify the Borrower of its obligations hereunder; provided, however, that the failure to provide Borrower with such notice shall not release the Borrower of its indemnification obligation under this Section 3.01(c).

(d) Evidence of Payments. As soon as practicable after any payment of Indemnified Taxes or Other Taxes by the Borrower to a Governmental Authority, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) Status of Lenders. Each Foreign Lender shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the request of the Borrower or the Administrative Agent, but only if such Foreign Lender is legally entitled to do so), whichever of the following is applicable:

(i) duly completed copies of Internal Revenue Service Form W-8BEN (or any successor form) claiming eligibility for benefits of an income tax treaty to which the United States is a party and which provides for an exemption from or reduction in United States Federal withholding tax,

(ii) duly completed copies of Internal Revenue Service Form W-8ECI (or any successor form),

(iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under section 881(c) of the Code, (A) a certificate to the effect that such Foreign Lender is not (1) a "bank" within the meaning of section 881(c)(3)(A) of the Code, (2) a "10 percent shareholder" of the Borrower within the meaning of section 881(c)(3)(B) of the Code, or (3) a "controlled foreign corporation" described in section 881(c)(3)(C) of the Code and (B) duly completed copies of Internal Revenue Service Form W-8BEN, or

(iv) any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in United States Federal withholding tax duly completed together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower to determine the withholding or deduction required to be made.

(f) Treatment of Certain Refunds. If the Administrative Agent, any Lender or the L/C Issuer determines, in its sole discretion, which shall be applied in good faith, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section, it shall pay to the Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section with respect to the Indemnified Taxes or Other Taxes giving rise to such refund), net of all

reasonable out-of-pocket expenses of the Administrative Agent, such Lender or the L/C Issuer, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that the Borrower, upon the request of the Administrative Agent, such Lender or the L/C Issuer, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent, such Lender or the L/C Issuer if the Administrative Agent, such Lender or the L/C Issuer is required to repay such refund to such Governmental Authority. This subsection shall not be construed to require the Administrative Agent, any Lender or the L/C Issuer to make available its tax returns (or any other information relating to its taxes that it deems confidential) to the Borrower or any other Person.

3.02 Illegality. If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund Eurodollar Rate Loans, or to determine or charge interest rates based upon the Eurodollar Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, any obligation of such Lender to make or continue Eurodollar Rate Loans or to convert Base Rate Loans to Eurodollar Rate Loans shall be suspended until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Borrower shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all Eurodollar Rate Loans of such Lender to Base Rate Loans, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurodollar Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurodollar Rate Loans. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

3.03 Inability to Determine Rates. If the Required Lenders determine that for any reason in connection with any request for a Eurodollar Rate Loan or a conversion to or continuation thereof that (a) Dollar deposits are not being offered to banks in the London interbank eurodollar market for the applicable amount and Interest Period of such Eurodollar Rate Loan, (b) adequate and reasonable means do not exist for determining the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan, or (c) the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, the obligation of the Lenders to make or maintain Eurodollar Rate Loans shall be suspended until the Administrative Agent (upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurodollar Rate Loans or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans in the amount specified therein.

3.04 Increased Costs; Reserves on Eurodollar Rate Loans. (a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement taken into account in determining the Eurodollar Rate or contemplated by Section 3.04(e)) or the L/C Issuer; or

(ii) impose on any Lender or the L/C Issuer or the London interbank market any other condition, cost or expense affecting this Agreement or Eurodollar Rate Loans made by such Lender or any Letter of Credit or participation therein (other than with respect to Taxes and Other Taxes covered by Section 3.01);

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Eurodollar Rate Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender or the L/C Issuer of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or the L/C Issuer hereunder (whether of principal, interest or any other amount) then, upon request of such Lender or the L/C Issuer, the Borrower will pay to such Lender or the L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or the L/C Issuer, as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender or the L/C Issuer determines that any Change in Law affecting such Lender or the L/C Issuer or any Lending Office of such Lender or such Lender's or the L/C Issuer's holding company, if any, regarding capital requirements has or would have the effect of reducing the rate of return on such Lender's or the L/C Issuer's capital or on the capital of such Lender's or the L/C Issuer's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by the L/C Issuer, to a level below that which such Lender or the L/C Issuer or such Lender's or the L/C Issuer's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or the L/C Issuer's policies and the policies of such Lender's or the L/C Issuer's holding company with respect to capital adequacy), then from time to time the Borrower will pay to such Lender or the L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or the L/C Issuer or such Lender's or the L/C Issuer's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender or the L/C Issuer setting forth the amount or amounts necessary to compensate such Lender or the L/C Issuer or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section 3.04 or in Section 3.05 and specifying in reasonable detail the basis for such compensation and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender or the L/C Issuer, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender or the L/C Issuer to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of such Lender's or the L/C Issuer's right to demand such compensation,

provided that the Borrower shall not be required to compensate a Lender or the L/C Issuer pursuant to the foregoing provisions of this Section 3.04 for any increased costs incurred or reductions suffered more than six months prior to the date that such Lender or the L/C Issuer, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or the L/C Issuer's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the six-month period referred to above shall be extended to include the period of retroactive effect thereof).

(e) Reserves on Eurodollar Rate Loans. The Borrower shall pay to each Lender, as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits (currently known as "Eurocurrency liabilities"), additional interest on the unpaid principal amount of each Eurodollar Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive), which shall be due and payable on each date on which interest is payable on such Loan, provided the Borrower shall have received at least 10 days' prior notice (with a copy to the Administrative Agent) of such additional interest from such Lender. If a Lender fails to give notice 10 days prior to the relevant Interest Payment Date, such additional interest shall be due and payable 10 days from receipt of such notice.

3.05 Compensation for Losses. Upon demand of any Lender (with a copy to the Administrative Agent) from time to time, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(b) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan on the date or in the amount notified by the Borrower; or

(c) any assignment of a Eurodollar Rate Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 10.13;

including any loss of anticipated profits (excluding the Applicable Rate) and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained.

For purposes of calculating amounts payable by the Borrower to the Lenders under this Section 3.05, each Lender shall be deemed to have funded each Eurodollar Rate Loan made by it at the Eurodollar Rate for such Loan by a matching deposit or other borrowing in the London interbank eurodollar market for a comparable amount and for a comparable period, whether or not such Eurodollar Rate Loan was in fact so funded.

3.06 Mitigation Obligations; Replacement of Lenders. (a) Designation of a Different Lending Office. If any Lender requests compensation under Section 3.04, or the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then such Lender shall use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender to any unreimbursed cost or expense and would not otherwise be materially disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) Replacement of Lenders. If any Lender requests compensation under Section 3.04 or delivers a notice described in Section 3.02, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, the Borrower may replace such Lender in accordance with Section 10.13.

3.07 Survival. All of the Borrower's obligations under this Article III, as well as the Lenders' obligations under Section 3.01(e), shall survive termination of the Aggregate Commitments and repayment of all other Obligations hereunder.

ARTICLE IV CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

4.01 Conditions of Initial Credit Extension. The obligation of the L/C Issuer and each Lender to make its initial Credit Extension hereunder is subject to satisfaction or waiver of the following conditions precedent:

(a) The Administrative Agent's receipt of the following, each of which shall be originals or telecopies (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party (if applicable), each dated the Closing Date (or, in the case of certificates of governmental officials, a recent date before the Closing Date) and each in form and substance reasonably satisfactory to the Lead Arrangers:

(i) executed counterparts of this Agreement and the Guaranty, in such number as the Administrative Agent may request;

(ii) a Note executed by the Borrower in favor of each Lender that has requested a Note at least two Business Days in advance of the Closing Date;

(iii) a security agreement, in substantially the form of Exhibit G (together with each other security agreement and security agreement supplement delivered pursuant to Section 6.12, in each case as amended, the "Security Agreement"), duly executed by each Loan Party, together with:

(A) certificates representing the Pledged Equity referred to therein that constitute certificated securities (as defined in the UCC) accompanied by undated stock powers executed in blank and instruments evidencing the Pledged Debt indorsed in blank to the extent required by the Security Agreement,

(B) proper financing statements in form appropriate for filing, duly prepared for filing under the Uniform Commercial Code of all jurisdictions that the Administrative Agent may deem necessary in order to perfect the Liens created under the Security Agreement, covering the Collateral described in the Security Agreement,

(C) completed requests for information, dated on or before the date of the initial Credit Extension, listing all effective financing statements filed in the jurisdictions referred to in clause (B) above that name any Loan Party as debtor, together with copies of such other financing statements,

(D) evidence of the completion of, or of arrangements reasonably satisfactory to the Administrative Agent for the completion of, all other actions, recordings and filings of or with respect to the Security Agreement that the Administrative Agent may deem necessary in order to perfect the Liens created thereby, and

(E) evidence that all other action that the Administrative Agent may deem necessary in order to perfect the Liens created under the Security Agreement has been taken or that arrangements reasonably satisfactory to the Administrative Agent for the completion thereof have been made (including receipt of duly executed payoff letters and UCC-3 termination statements);

(iv) an intellectual property security agreement, in substantially the form of Exhibit I (together with each other intellectual property security agreement and intellectual property security agreement supplement delivered pursuant to Section 6.12, in each case as amended, the "Intellectual Property Security Agreement"), duly executed by each Loan Party party thereto, together with evidence that all action that the Administrative Agent may deem necessary in order to perfect the Liens created under the Intellectual Property Security Agreement has been taken or will be taken promptly after the Closing Date;

(v) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may reasonably require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party or is to be a party;

(vi) such documents and certifications as the Administrative Agent may reasonably require to evidence that each Loan Party is duly organized or formed, and that each Loan Party is validly existing, in good standing and qualified to engage in business in each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect;

(vii) a favorable opinion of Davis Polk & Wardwell, special New York counsel to the Loan Parties, addressed to the Administrative Agent and each Lender, substantially in the form of Exhibit J-1;

(viii) a favorable opinion of Morris, Nichols, Arsht & Tunnell, special Delaware counsel to the Loan Parties, addressed to the Administrative Agent and each Lender, substantially in the form of Exhibit J-2;

(ix) a favorable opinion of general counsel to the Loan Parties, addressed to the Administrative Agent and each Lender, substantially in the form of Exhibit J-3;

(x) a certificate of a Responsible Officer of each Loan Party either (A) attaching copies of all consents, licenses and approvals required in connection with the consummation by such Loan Party of the Transaction and the execution, delivery and performance by such Loan Party of the Loan Documents to which it is a party, and such consents, licenses and approvals shall be in full force and effect, or (B) stating that no such consents, licenses or approvals are so required;

(xi) a certificate signed by a Responsible Officer of the Borrower certifying (A) that the conditions specified in Sections 4.02(a) and (b) have been satisfied, and (B) that there has been no event or circumstance since the date of the Audited Financial Statements that has had or could be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect;

(xii) a certificate attesting to the Solvency of the Borrower and its Subsidiaries, taken as a whole, immediately after giving effect to the Transaction, from the Borrower's chief financial officer; and

(xiii) a Committed Loan Notice relating to the initial Credit Extension.

(b) All fees required to be paid to the Administrative Agent and the Lead Arrangers on or before the Closing Date pursuant to the Engagement Letter or the Fee Letter shall have been paid.

(c) Unless waived by the Administrative Agent, the Borrower shall have paid all reasonable fees, charges and disbursements of counsel to the Administrative Agent (directly to such counsel if requested by the Administrative Agent) to the extent invoiced prior to the Closing Date and payable by the Borrower pursuant to the Engagement Letter, plus such additional amounts of such fees, charges and disbursements as shall

constitute its reasonable estimate of such fees, charges and disbursements incurred or to be incurred by it through the closing proceedings (provided that such estimate shall not thereafter preclude a final settling of accounts between the Borrower and the Administrative Agent).

(d) The Closing Date shall have occurred on or before January 31, 2008.

(e) The Refinancing shall have been consummated or shall be consummated concurrently with the initial Credit Extension.

(f) The Lead Arrangers shall have received audited consolidated financial statements of the Borrower for the 6-month period ended May 31, 2007 (the "Interim Audited Financial Statement"), accompanied by a report and opinion of Deloitte & Touche LLP.

(g) The IPO shall have been consummated or shall be consummated concurrently with the initial Credit Extension.

(h) The Lead Arrangers shall be reasonably satisfied that the amount, types and terms and conditions of all insurance maintained by or on behalf of the Borrower and its Subsidiaries are substantially consistent with the amount, types and terms and conditions of insurance maintained by other entities engaged in businesses similar to that of the Borrower, and the Administrative Agent shall have received an endorsement naming the Administrative Agent, on behalf of the Lenders, as an additional insured under the liability insurance policy maintained with respect to the assets and properties of the Loan Parties that constitute Collateral.

(i) After giving effect to the Transaction, including all Credit Extensions made in connection therewith, there shall be no Revolving Credit Loans, L/C Obligations or Swing Line Loans outstanding as of the Closing Date.

(j) The Lead Arrangers shall have received a certificate from the Borrower certifying that the Consolidated Leverage Ratio for the twelve-month period ended as of the most recently ended fiscal quarter prior to the Closing Date for which financial statements are available, and calculated on a Pro Forma Basis after giving effect to the Transaction, is no greater than 3.50:1.00.

(k) The Lead Arrangers shall have received all documentation and other information reasonably requested in writing at least three Business Days prior to the Closing Date in order to allow the Lead Arrangers to comply with applicable "know your customer" and anti-money laundering rules and regulations, including without limitation, the USA Patriot Act.

Without limiting the generality of the provisions of Section 9.04, for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

4.02 Conditions to all Credit Extensions. The obligation of each Lender to honor any Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Loans to the other Type, or a continuation of Eurodollar Rate Loans) is subject to the satisfaction (or waiver) of the following conditions precedent:

(a) The representations and warranties of the Borrower and each other Loan Party contained in Article V or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct in all material respects on and as of the date of such Credit Extension, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects as of such earlier date, and except that for purposes of this Section 4.02, the representations and warranties contained in Sections 5.05(a) and (b) shall be deemed to refer to the most recent statements furnished pursuant to Sections 6.01(a) and (b), respectively.

(b) No Default shall exist, or would result from such proposed Credit Extension or from the application of the proceeds thereof.

(c) The Administrative Agent and, if applicable, the L/C Issuer or the Swing Line Lender shall have received a Request for Credit Extension in accordance with the requirements hereof.

Each Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Loans to the other Type or a continuation of Eurodollar Rate Loans) submitted by the Borrower shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(a) and (b) have been satisfied on and as of the date of the applicable Credit Extension.

ARTICLE V REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Administrative Agent and the Lenders that:

5.01 Existence, Qualification and Power. Each Loan Party and each of its Subsidiaries (a) is duly organized or formed, validly existing and, as applicable, in good standing under the Laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to (i) own or lease its assets and carry on its business and (ii) execute, deliver and perform its obligations under the Loan Documents to which it is a party and consummate the Transaction, and (c) is duly qualified and is licensed and, as applicable, in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license; except in each case referred to in clause (b)(i) or (c), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

5.02 Authorization; No Contravention. The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is a party have been duly authorized by all necessary corporate or other organizational action, and do not (a) contravene the terms of any of such Person's Organization Documents; (b) conflict with or result in any breach or contravention of, or the creation of any Lien (other than Liens under the Collateral Documents) under, or require any payment to be made under (i) any Contractual Obligation to which such Person is a party or affecting such Person or the properties of such Person or any of its Subsidiaries or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (c) violate any Law; except with respect to any conflict, breach, contravention, payment or violation (but not creation of Liens) referred to in clause (b) or (c), to the extent that such conflict, breach, contravention, payment or violation could not reasonably be expected to have a Material Adverse Effect.

5.03 Governmental Authorization; Other Consents. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with (a) the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document, or for the consummation of the Transaction, (b) the grant by any Loan Party of the Liens granted by it pursuant to the Collateral Documents, (c) the perfection or maintenance of the Liens created under the Collateral Documents (including the priority thereof contemplated thereunder) or (d) the exercise by the Administrative Agent or any Lender of its rights under the Loan Documents or the remedies in respect of the Collateral pursuant to the Collateral Documents, except for (i) the filing of UCC financing statements and filings to perfect security interests with the United States Patent and Trademark Office and the United States Copyright Office, (ii) the recordation of any Mortgage, (iii) any filings or recordings similar to those referred to in clauses (i) and (ii) required to be made in any foreign jurisdiction, (iii) such as have been made or obtained and are in full force and effect, and (iv) such other items the failure to make or obtain which could not reasonably be expected to have a Material Adverse Effect.

5.04 Binding Effect. This Agreement has been, and each other Loan Document, when delivered hereunder, will have been, duly executed and delivered by each Loan Party that is party thereto. This Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms, except as enforceability may be limited by applicable Debtor Relief Laws or similar laws affecting creditors' rights generally or by general principles of equity.

5.05 Financial Statements; No Material Adverse Effect. (a) The Audited Financial Statements and the Interim Audited Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; and (ii) fairly present in all material respects the financial condition of the Borrower and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein and subject, in the case of the Interim Audited Financial Statements, to normal year-end audit and adjustments.

(b) The unaudited condensed consolidated statement of financial condition of the Borrower and its Subsidiaries dated August 31, 2007, and the related condensed consolidated statements of income, comprehensive income, shareholders' equity and cash flows for the nine months ended on that date (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, and (ii) fairly present in all material respects the financial condition of the Borrower and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby, subject, in the case of clauses (i) and (ii), to the absence of footnotes and to normal year-end audit adjustments.

(c) Since the date of the Audited Financial Statements, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.

(d) The consolidated forecasted business plans (including balance sheet, statements of income and cash flows prepared by management of the Borrower) of the Borrower and its Subsidiaries delivered pursuant to Section 6.01(c) were prepared in good faith on the basis of the assumptions stated therein, which assumptions were fair in light of the conditions existing at the time of delivery of such forecasts, and represented, at the time of delivery, the Borrower's good faith estimate of its future financial condition and performance (it being recognized by the Administrative Agent and the Lenders that such forecasted statements are not to be viewed as facts and that actual results during the period or periods covered thereby may vary and such variances may be material).

5.06 Litigation. Except as disclosed on Schedule 5.06, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower after due and diligent investigation, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against the Borrower or any of its Subsidiaries or against any of their properties or revenues that (a) purport to restrain or contest entry into or performance under this Agreement or any other Loan Document or the consummation of the Transaction, or (b) either individually or in the aggregate could reasonably be expected to have a Material Adverse Effect.

5.07 No Default. None of any Loan Party, any Subsidiary or, to the knowledge of the Borrower, any other party to any Contractual Obligation of any Loan Party or any Subsidiary is in default under or with respect to any such Contractual Obligation which default could, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. No Default has occurred and is continuing or would result from the consummation of the Transaction.

5.08 Ownership of Property; Liens. (a) Each Loan Party and each of its Subsidiaries has good record and marketable title to, or valid leasehold interests in, all real property necessary in the ordinary conduct of its business, except for such defects in title as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. As of the Closing Date, no Loan Party owns any Material Real Property.

(b) The property of each Loan Party and each of its Subsidiaries is subject to no Liens, other than Liens set forth on Schedule 5.08(b) or as otherwise permitted by Section 7.01.

(c) Schedule 5.08(c) sets forth a complete and accurate list of all real property owned by each Loan Party and each of its Subsidiaries as of the Closing Date, showing as of the Closing Date the street address, county or other relevant jurisdiction, state and record owner thereof.

5.09 Environmental Compliance. Except with respect to any matters that could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, none of the Loan Parties nor any of their respective Subsidiaries (a) has failed to comply with any Environmental Law or to obtain, maintain or comply with any Environmental Permit or to provide any notification required under any Environmental Law or has become subject to any Environmental Liability or is conducting or financing any investigation, response or corrective action pursuant to any Environmental Law at any location; or (b) knows of any basis for Environmental Liability, except as disclosed on Schedule 5.09.

5.10 Insurance. The properties of the Borrower and its Subsidiaries are insured with financially sound and reputable insurance companies not Affiliates of the Borrower, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Borrower or the applicable Subsidiary operates (it being understood that the Borrower and its Subsidiaries are covered as of the Closing Date, and may continue to be covered after the Closing Date, by the Morgan Stanley insurance arrangements generally applicable to Morgan Stanley and its Subsidiaries, including any self-insurance arrangements that may be maintained by Morgan Stanley from time to time).

5.11 Taxes. The Borrower and its Subsidiaries have filed, or have caused to be filed, all Federal, state and other material tax returns and reports required to be filed, and have paid, or have caused to be paid, all Federal, state and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except (i) those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP or (ii) to the extent the failure to do any of the foregoing could not reasonably be expected to have a Material Adverse Effect. There is no proposed tax assessment against the Borrower or any of its Subsidiaries that would, if made, have a Material Adverse Effect. Neither any Loan Party nor any Subsidiary thereof is party to any tax sharing agreement other than one or more tax sharing agreements between or among Loan Parties and other Domestic Subsidiaries and the tax sharing agreement between the Borrower and Morgan Stanley or its Affiliates (other than the Borrower and its Subsidiaries).

5.12 ERISA Compliance. (a) Except with respect to any matter that could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (i) each Plan is in compliance in all respects with the applicable provisions of ERISA, the Code and other Federal or state Laws, (ii) each Plan that is intended to qualify under Section 401(a) of the Code has received a favorable determination letter from the IRS or an application for such a

letter is currently being processed by the IRS with respect thereto and, to the best knowledge of the Borrower, nothing has occurred which would prevent, or cause the loss of, such qualification, and (iii) the Borrower and, to the knowledge of the Borrower, each ERISA Affiliate have made all required contributions to each Plan subject to Section 412 of the Code, and no application for a funding waiver or an extension of any amortization period pursuant to Section 412 of the Code has been made with respect to any Plan.

(b) There are no pending or, to the best knowledge of the Borrower, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that could reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted or could reasonably be expected to result in a Material Adverse Effect.

(c) Except as would not reasonably be expected to have a Material Adverse Effect: (i) No ERISA Event has occurred or is reasonably expected to occur; (ii) no Pension Plan has any Unfunded Pension Liability; (iii) neither the Borrower nor, to the knowledge of the Borrower, any ERISA Affiliate has incurred, or reasonably expects to incur, any liability under Title IV of ERISA with respect to any Pension Plan (other than premiums due and not delinquent under Section 4007 of ERISA); (iv) neither the Borrower nor, to the knowledge of the Borrower, any ERISA Affiliate has incurred, or reasonably expects to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Section 4201 or 4243 of ERISA with respect to a Multiemployer Plan; and (v) neither the Borrower nor, to the knowledge of the Borrower, any ERISA Affiliate has engaged in a transaction that could reasonably be expected to result in a liability to a Loan Party by reason of Section 4069 or 4212(c) of ERISA.

5.13 Subsidiaries; Equity Interests; Loan Parties. As of the Closing Date, no Loan Party has any Subsidiaries other than those specifically disclosed in Part (a) of Schedule 5.13, and all of the outstanding Equity Interests in such Subsidiaries have been validly issued, are, if applicable, fully paid and non-assessable and, as of the Closing Date, are owned (other than with respect to director's qualifying shares and shares issued to foreign nationals to the extent required by applicable law) by a Loan Party in the amounts specified on Part (a) of Schedule 5.13 free and clear of all Liens except those permitted under Section 7.01. As of the Closing Date, no Loan Party has any equity investments in any other corporation or entity (other than a Subsidiary) other than those specifically disclosed in Part (b) of Schedule 5.13. Set forth on Part (c) of Schedule 5.13 is a complete and accurate list as of the Closing Date of all Loan Parties, showing as of the Closing Date (as to each Loan Party) the jurisdiction of its incorporation, the address of its principal place of business and its U.S. taxpayer identification number. As of the Closing Date, the copy of the charter of each Loan Party and each amendment thereto provided pursuant to Section 4.01(a)(vi) is a true and correct copy of each such document, each of which is valid and in full force and effect.

5.14 Margin Regulations; Investment Company Act. (a) The Borrower is 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, in each case in violation of such Regulation U.

(b) None of the Loan Parties and their Subsidiaries is required to be registered as an “investment company” under the Investment Company Act of 1940.

5.15 Disclosure. No report, financial statement, certificate or other information furnished in writing by or on behalf of any Loan Party to the Administrative Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or under any other Loan Document (in each case as modified or supplemented by other information so furnished and by the Registration Statement), taken as a whole, contains, when furnished, any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not materially misleading; provided that (i) with respect to projected, pro forma or budgeted financial information, the Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time such information was prepared (it being recognized by the Administrative Agent and the Lenders that such information is not to be viewed as facts and that actual results during the period or periods covered thereby may vary and such variances may be material) and (ii) the Borrower make no representation or warranty with respect to information of a general economic or general industry nature.

5.16 Compliance with Laws. Each Loan Party and each Subsidiary thereof is in compliance in all respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

5.17 Intellectual Property; Licenses, Etc. Except as set forth in Part (i) of Schedule 5.17, as disclosed in the Registration Statement or would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (i) each Loan Party and each of its Subsidiaries own, or possess the right to use, all of the trademarks, service marks, trade names, copyrights, patents, patent rights and other intellectual property rights (collectively, “IP Rights”) that are reasonably necessary for the operation of their respective businesses, without conflict with the rights of any other Person, (ii) Part (ii) of Schedule 5.17 sets forth, as of the Closing Date, a complete and accurate list of all registrations and applications for registration in respect of such material IP Rights owned by each Loan Party and each of its Subsidiaries and (iii) no slogan or other advertising device, product, process, method, substance, part or other material now employed, or now contemplated to be employed, by any Loan Party or any of its Subsidiaries infringes upon any rights held by any other Person. Except as disclosed in the Registration Statement, no claim or litigation regarding any of the foregoing is pending or, to the knowledge of the Borrower, threatened, which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

5.18 Solvency. Immediately after consummation of the Transaction on the Closing Date, the Loan Parties, on a consolidated basis, are Solvent.

ARTICLE VI
AFFIRMATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation (other than any Unmatured Surviving Obligations) hereunder shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding (unless cash collateralized in a manner reasonably satisfactory to the L/C Issuer), the Borrower shall, and shall (except in the case of the covenants set forth in Sections 6.01, 6.02, 6.03 and 6.11) cause each Subsidiary to:

6.01 Financial Statements. Deliver to the Administrative Agent (which shall deliver to each Lender), in form and detail reasonably satisfactory to the Administrative Agent:

(a) as soon as available, but in any event within 90 days after the end of each fiscal year of the Borrower, a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of income or operations, shareholders' equity and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, audited and accompanied by a report and opinion of Deloitte & Touche LLP or any other independent certified public accountant of nationally recognized standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit;

(b) as soon as available, but in any event within 45 days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower (commencing with the fiscal quarter ending February 29, 2008), a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal quarter, and the related consolidated statements of income or operations, shareholders' equity and cash flows for such fiscal quarter and for the portion of the Borrower's fiscal year then ended, setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail, certified by the chief executive officer, chief financial officer, principal accounting officer, treasurer or controller of the Borrower as fairly presenting in all material respects the financial condition, results of operations, shareholders' equity and cash flows of the Borrower and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes; and

(c) as soon as available, but in any event no later than sixty (60) days after the end of each fiscal year of the Borrower (starting with the fiscal year ended November 30, 2008), an annual business plan of the Borrower and its Subsidiaries on a consolidated basis, including forecasts prepared by management of the Borrower (which are not required to be in accordance with GAAP) of consolidated balance sheets and statements of income or operations and cash flows of the Borrower and its Subsidiaries on a quarterly basis for the immediately following fiscal year (including the fiscal year in which the Maturity Date for the Term B Facility occurs) (it being recognized by the Administrative Agent and the Lenders that such information is not to be viewed as facts and that actual results during the period or periods covered thereby may vary and such variances may be material).

As to any information contained in materials furnished pursuant to Section 6.02(c), the Borrower shall not be separately required to furnish such information under Section 6.01(a) or (b) above, but the foregoing shall not be in derogation of the obligation of the Borrower to furnish the information and materials described in Sections 6.01(a) and (b) above at the times specified therein.

6.02 Certificates; Other Information. Deliver to the Administrative Agent (which shall deliver to each Lender), in form and detail reasonably satisfactory to the Administrative Agent:

(a) starting with the fiscal quarter ending February 29, 2008 and concurrently with the delivery of the financial statements referred to in Sections 6.01(a) and (b), a duly completed Compliance Certificate signed by the chief executive officer, chief financial officer, principal accounting officer, treasurer or controller of the Borrower;

(b) promptly after any request by the Administrative Agent or any Lender, copies of any detailed audit reports, management letters or recommendations submitted to the board of directors (or the audit committee of the board of directors) of any Loan Party, in each case, prepared by independent accountants in connection with the accounts or books of any Loan Party or any of its Subsidiaries, or any audit of any of them;

(c) promptly after the same are available, copies of each annual report, proxy or financial statement or other material report or communication sent to the stockholders of the Borrower, and copies of all material annual, regular, periodic and special reports and registration statements which the Borrower may file or be required to file with the SEC under Section 13 or 15(d) of the Securities Exchange Act of 1934 (other than registration statements on Form S-8 or exhibits to any of the foregoing), or with any national securities exchange, and in any case not otherwise required to be delivered to the Administrative Agent pursuant hereto;

(d) promptly after the furnishing thereof, copies of any material statement or report furnished to any holder of debt securities of any Loan Party or of any of its Subsidiaries pursuant to the terms of any indenture, loan or credit or similar agreement involving Indebtedness then outstanding in an aggregate principal amount in excess of the Threshold Amount and not otherwise required to be furnished to the Lenders pursuant to Section 6.01 or any other clause of this Section 6.02;

(e) promptly, and in any event within five Business Days after receipt thereof by any Loan Party or any Subsidiary thereof, copies of each material notice or other correspondence received from the SEC (or comparable agency in any applicable non-U.S. jurisdiction) concerning any investigation or possible investigation or other inquiry by such agency regarding financial or other operational results of any Loan Party or any of its Subsidiaries; provided that the Borrower shall not be required to provide a copy of any such communication if the Borrower is prohibited or restricted by any applicable law or by the terms of such communication from providing such copy;

(f) together with the delivery of each Compliance Certificate pursuant to Section 6.02(a) with respect to financial statements referred to in Section 6.01(a), a report supplementing Schedule 5.08(c) hereto to the extent necessary, including an identification of all owned real property Disposed of by any Loan Party, if any, or any of its Subsidiaries since the delivery of the last supplements and a list and description of all Material Real Property acquired, if any, since the delivery of the last supplements (including the street address, county or other relevant jurisdiction, state or other relevant jurisdiction, and the record owner); and

(g) subject to the proviso to clause (e), promptly, such additional information regarding the business, financial, legal or corporate affairs of any Loan Party or any of its Subsidiaries, or compliance with the terms of the Loan Documents, as the Administrative Agent or any Lender may from time to time reasonably request.

Documents required to be delivered pursuant to Section 6.01(a) or (b) or Section 6.02(b), (c), (d) or (e) may be delivered electronically and, if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower posts such documents, or provides a link thereto on the Borrower's website on the Internet at the website address listed on Schedule 10.02; or (ii) on which such documents are posted on the Borrower's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that: (i) the Borrower shall deliver paper copies of such documents to the Administrative Agent or any Lender that requests the Borrower to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (ii) the Borrower shall notify the Administrative Agent, which shall notify each Lender, (by telecopier or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Notwithstanding anything contained herein, in every instance the Borrower shall be required to provide paper copies of the Compliance Certificates required by Section 6.02(a) to the Administrative Agent. Except for such Compliance Certificates, the Administrative Agent shall have no obligation to request the delivery or to maintain copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Lead Arrangers will make available to the Lenders and the L/C Issuer materials and/or information provided by or on behalf of the Borrower hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks or another similar electronic system (the "Platform") and (b) certain of the Lenders (each, a "Public Lender") may have personnel who do not wish to receive material non-public information with respect to the Borrower or its Subsidiaries, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons' securities. The Borrower hereby agrees that it will use commercially reasonable efforts to identify that portion

of the Borrower Materials that may be distributed to the Public Lenders and that (w) all such Borrower Materials shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Borrower shall be deemed to have authorized the Administrative Agent, the Lead Arrangers, the L/C Issuer and the Lenders to treat such Borrower Materials as not containing any material non-public information (although it may be sensitive and proprietary) with respect to the Borrower or its securities for purposes of United States Federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 10.07); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Investor;" and (z) the Administrative Agent and the Lead Arrangers shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Investor."

6.03 Notices. Promptly notify the Administrative Agent:

(a) of the occurrence of any Default;

(b) of any matter that has resulted or could reasonably be expected to result in a Material Adverse Effect, including (but in each case only to the extent the same has resulted or could reasonably be expected to result in a Material Adverse Effect) (i) breach or non-performance of, or any default under, a Contractual Obligation of the Borrower or any of its Subsidiaries; (ii) any dispute, litigation, investigation, proceeding or suspension between the Borrower or any of its Subsidiaries and any Governmental Authority; or (iii) the commencement of, or any material development in, any litigation or proceeding affecting the Borrower or any of its Subsidiaries, including pursuant to any applicable Environmental Laws; and

(c) of the occurrence of any ERISA Event.

Each notice pursuant to Section 6.03 shall be accompanied by a statement of a Responsible Officer of the Borrower setting forth details of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto. Each notice pursuant to Section 6.03(a) shall describe with particularity any and all provisions of this Agreement and any other Loan Document that have been breached.

6.04 Payment of Obligations. Pay and discharge as the same shall become due and payable, all its obligations and liabilities in respect of (a) all tax liabilities, assessments and governmental charges or levies upon it or its properties or assets; (b) all lawful claims which, if unpaid, would by law become a Lien upon its property (other than any Lien permitted under Section 7.01); and (c) all Indebtedness, as and when due and payable, but subject to any subordination provisions contained in any instrument or agreement evidencing such Indebtedness, except, in each case (i) to the extent the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by the Borrower or such Subsidiary or (ii) to the extent the failure to pay or discharge the same could not reasonably be expected to have a Material Adverse Effect.

6.05 Preservation of Existence, Etc. (a) Preserve, renew and maintain in full force and effect its legal existence and good standing under the Laws of the jurisdiction of its organization except in a transaction permitted by Sections 7.03, 7.04 or 7.05 or in respect of an Immaterial Subsidiary; (b) take all commercially reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary in the normal conduct of its business, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; and (c) except to the extent permitted by Section 7.05, take all commercially reasonable action to preserve or renew all of its registered patents, trademarks, trade names and service marks, the non-preservation of which could reasonably be expected to have a Material Adverse Effect.

6.06 Maintenance of Properties. (a) Maintain, preserve and protect all of its material properties and equipment necessary in the operation of its 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, in each case with respect to clauses (a) and (b), where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

6.07 Maintenance of Insurance. Maintain or cause to be maintained (i) the insurance substantially similar to the insurance listed on Schedule 6.07 or (ii) with financially sound and reputable insurance companies not Affiliates of the Borrower, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts as are customarily carried under similar circumstances by such other Persons and providing, in the case of all material insurance policies, for not less than 30 days' prior notice (or such shorter notice as acceptable to the Administrative Agent) to the Administrative Agent of termination, lapse or cancellation of such insurance.

6.08 Compliance with Laws. Comply in all respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted; or (b) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

6.09 Books and Records. Maintain proper books of record and account (in which full, true and correct, in all material respects, entries shall be made of all material financial transactions and matters involving the assets and business of the Borrower and its Subsidiaries) in a manner that permits the preparation of financial statements in accordance with GAAP.

6.10 Inspection Rights. Permit representatives and independent contractors of the Administrative Agent to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers responsible for financial matters, and independent public accountants (at which authorized representatives of the Borrower shall be entitled to be present), all at the reasonable expense of the Borrower and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrower; provided that, excluding any such visits and inspections during

the continuation of an Event of Default, only the Administrative Agent on behalf of the Lenders may exercise rights under this Section 6.10 and the Administrative Agent shall not exercise such rights more often than one (1) time during any calendar year absent the existence and continuance of an Event of Default; provided further that when an Event of Default exists the Administrative Agent or any Lender (or any of their respective representatives or independent contractors) may do any of the foregoing at the reasonable expense of the Borrower at any time during normal business hours.

6.11 Use of Proceeds. Use the proceeds of the Credit Extensions (i) in the case of the Term Loans incurred on the Closing Date, to finance in part the Refinancing and to pay fees and expenses incurred in connection with the Transaction and (ii) otherwise, for general corporate purposes, including Permitted Acquisitions, not in contravention of any Law or of any Loan Document.

6.12 Covenant to Guarantee Obligations and Give Security. (a) Upon the formation or acquisition of any new direct or indirect Subsidiary that is a wholly-owned Material Domestic Subsidiary by any Loan Party, the Borrower shall, at the Borrower's expense (it being agreed and understood that any reference to any parent of a Subsidiary in this Section 6.12 shall not include any indirect or direct parent of the Borrower):

(i) within 30 days after such formation or acquisition (or such longer period as the Administrative Agent shall agree in its sole discretion), cause such Subsidiary, and cause each direct and indirect parent of such Subsidiary (if it has not already done so), to duly execute and deliver to the Administrative Agent a guaranty or guaranty supplement, substantially in the form attached to the Guaranty or otherwise in form and substance reasonably satisfactory to the Administrative Agent, guaranteeing the other Loan Parties' obligations under the Loan Documents,

(ii) within 15 days after such formation or acquisition (or such longer period as the Administrative Agent shall agree in its sole discretion), furnish to the Administrative Agent a description of any Material Real Property of such Subsidiary, in detail reasonably satisfactory to the Administrative Agent,

(iii) within 45 days after such formation or acquisition (or such longer period as the Administrative Agent shall agree in its sole discretion), cause such Subsidiary and each direct and indirect parent of such Subsidiary (if it has not already done so) to duly execute and deliver to the Administrative Agent deeds of trust, trust deeds, deeds to secure debt and mortgages in respect of any Material Real Property of such Subsidiary and Security Agreement Supplements, IP Security Agreement Supplements and other security and pledge agreements, substantially in the applicable form (if any) attached to the Loan Documents or otherwise in form and substance reasonably satisfactory to the Administrative Agent (including delivery of all Pledged Equity and Pledged Debt in and of such Subsidiary, and other instruments of the type specified in Section 4.01(a)(iii), in each case constituting Collateral), securing payment of all the Obligations of such Subsidiary or such parent, as the case may be, under the Loan Documents and constituting Liens on all such real and personal properties,

(iv) within 60 days after such formation or acquisition (or such longer period as the Administrative Agent shall agree in its sole discretion), cause such Subsidiary and each direct and indirect parent of such Subsidiary (if it has not already done so) to take all reasonable actions (including the recording of mortgages, the filing of Uniform Commercial Code financing statements, the giving of notices and the endorsement of notices on title documents) as may be necessary to vest in the Administrative Agent (or in any representative of the Administrative Agent designated by it) valid and subsisting Liens on the properties purported to be subject to the deeds of trust, trust deeds, deeds to secure debt, mortgages, Security Agreement Supplements, IP Security Agreement Supplements and security and pledge agreements delivered pursuant to this Section 6.12, enforceable against all third parties in accordance with their terms,

(v) within 60 days after such formation or acquisition (or such longer period as the Administrative Agent shall agree in its sole discretion), deliver to the Administrative Agent, upon the reasonable request of the Administrative Agent, a signed copy of a favorable opinion, addressed to the Administrative Agent and the other Lenders, of counsel for the Loan Parties reasonably acceptable to the Administrative Agent as to the matters contained in clauses (i), (iii) and (iv) above, and as to such other matters as the Administrative Agent may reasonably request, and

(vi) as promptly as practicable after such formation or acquisition (or such longer period as the Administrative Agent shall agree in its sole discretion), deliver, upon the reasonable request of the Administrative Agent, to the Administrative Agent, with respect to each Material Real Property that is owned or held by the entity that is the subject of such formation or acquisition, title reports, surveys and engineering, soils and other reports, and environmental assessment reports, in the case of surveys and engineering, soils, environmental and other reports, which report is in possession or control of a Loan Party, each in scope, form and substance reasonably satisfactory to the Administrative Agent, provided, however, that to the extent that any Loan Party shall have otherwise received any of the foregoing items with respect to such real property, such items shall, promptly after the receipt thereof, be delivered to the Administrative Agent.

(b) Upon the acquisition of any property (which, in the case of any real property, shall be limited to Material Real Property) of the type not excluded from the definition of "Collateral" by any Loan Party, and if such property, in the reasonable judgment of the Administrative Agent (to the extent such property is material), shall not already be subject to a perfected first priority security interest in favor of the Administrative Agent for the benefit of the Secured Parties, then the Borrower shall, upon the reasonable request of the Administrative Agent, at the Borrower's expense:

(i) within 15 days after such acquisition (or such longer period as the Administrative Agent shall agree in its sole discretion), furnish to the Administrative Agent a description of the property so acquired in detail reasonably satisfactory to the Administrative Agent,

(ii) within 45 days after such acquisition (or such longer period as the Administrative Agent shall agree in its sole discretion), cause the applicable Loan Party to duly execute and deliver to the Administrative Agent deeds of trust, trust deeds, deeds to secure debt, mortgages, mortgage modifications, Security Agreement Supplements, IP Security Agreement Supplements and other security and pledge agreements, substantially in the applicable form (if any) attached to the Loan Documents or otherwise in form and substance reasonably satisfactory to the Administrative Agent, securing payment of all the Obligations of the applicable Loan Party under the Loan Documents and constituting Liens on all such properties,

(iii) within 60 days after such acquisition (or such longer period as the Administrative Agent shall agree in its sole discretion), cause the applicable Loan Party to take all reasonable actions (including the recording of mortgages, the filing of Uniform Commercial Code financing statements, the giving of notices and the endorsement of notices on title documents) as may be necessary to vest in the Administrative Agent (or in any representative of the Administrative Agent designated by it) valid and subsisting Liens on such property, enforceable against all third parties,

(iv) within 60 days after such acquisition (or such longer period as the Administrative Agent shall agree in its sole discretion), deliver to the Administrative Agent, upon the reasonable request of the Administrative Agent, a signed copy of a favorable opinion, addressed to the Administrative Agent and the other Lenders, of counsel for the Loan Parties reasonably acceptable to the Administrative Agent as to the matters contained in clauses (ii) and (iii) above and as to such other matters as the Administrative Agent may reasonably request, and

(v) as promptly as practicable after any acquisition of a Material Real Property (or such longer period as the Administrative Agent shall agree in its sole discretion), deliver, upon the reasonable request of the Administrative Agent, to the Administrative Agent, with respect to such real property, title reports, surveys and engineering, soils and other reports, and environmental assessment reports, in the case of surveys and engineering, soils, environmental and other reports, which report is in possession or control of a Loan Party, each in scope, form and substance reasonably satisfactory to the Administrative Agent, provided, however, that to the extent that any Loan Party or any of its Subsidiaries shall have otherwise received any of the foregoing items with respect to such real property, such items shall, promptly after the receipt thereof, be delivered to the Administrative Agent,

(c) Upon the reasonable request of the Administrative Agent following the occurrence and during the continuance of an Event of Default, the Borrower shall, at the Borrower's expense:

(i) within 15 days after such request (or such longer period as the Administrative Agent shall agree in its sole discretion), furnish to the Administrative Agent a description of the material real and personal properties of the Loan Parties in detail reasonably satisfactory to the Administrative Agent,

(ii) within 45 days after such request (or such longer period as the Administrative Agent shall agree in its sole discretion), duly execute and deliver, and cause each other Loan Party and each Material Domestic Subsidiary of the Borrower (if it has not already done so) to duly execute and deliver, to the Administrative Agent deeds of trust, trust deeds, deeds to secure debt, mortgages, Security Agreement Supplements, IP Security Agreement Supplements and other security and pledge agreements, substantially in the applicable form (if any) attached to the Loan Documents or otherwise in form and substance reasonably satisfactory to the Administrative Agent (including delivery of all Pledged Equity and Pledged Debt in and of such Subsidiary, and other instruments of the type specified in Section 4.01(a)(iii), in each case constituting Collateral), securing payment of all the Obligations of the applicable Loan Party under the Loan Documents and constituting Liens on all such properties,

(iii) within 60 days after such request (or such longer period as the Administrative Agent shall agree in its sole discretion), take, and cause each Loan Party and each Material Domestic Subsidiary of the Borrower to take, all reasonable actions (including the recording of mortgages, the filing of Uniform Commercial Code financing statements, the giving of notices and the endorsement of notices on title documents) as may be necessary to vest in the Administrative Agent (or in any representative of the Administrative Agent designated by it) valid and subsisting Liens on the properties purported to be subject to the deeds of trust, trust deeds, deeds to secure debt, mortgages, Security Agreement Supplements, IP Security Agreement Supplements and security and pledge agreements delivered pursuant to this Section 6.12, enforceable against all third parties in accordance with their terms,

(iv) within 60 days after such request (or such longer period as the Administrative Agent shall agree in its sole discretion), deliver to the Administrative Agent, upon the reasonable request of the Administrative Agent, a signed copy of a favorable opinion, addressed to the Administrative Agent and the other Lenders, of counsel for the Loan Parties reasonably acceptable to the Administrative Agent as to the matters contained in clauses (ii) and (iii) above, and as to such other matters as the Administrative Agent may reasonably request, and

(v) as promptly as practicable after such request (or such longer period as the Administrative Agent shall agree in its sole discretion), deliver, upon the reasonable request of the Administrative Agent, to the Administrative Agent with respect to each Material Real Property that is owned or held by any Loan Party, title reports, surveys and engineering, soils and other reports, and environmental assessment reports, in the case of surveys and engineering, soils, environmental and other reports, which report is in possession or control of a Loan Party, each in scope, form and substance reasonably satisfactory to the Administrative Agent, provided, however, that to the extent that any Loan Party shall have otherwise received any of the foregoing items with respect to such real property, such items shall, promptly after the receipt thereof, be delivered to the Administrative Agent.

(d) At any time upon reasonable request of the Administrative Agent, promptly execute and deliver any and all further instruments and documents and take all such

other action as the Administrative Agent may deem necessary in obtaining the full benefits of, or (as applicable) in perfecting and preserving the Liens of, such guaranties, deeds of trust, trust deeds, deeds to secure debt, mortgages, Security Agreement Supplements, IP Security Agreement Supplements and other security and pledge agreements.

(e) Notwithstanding anything to the contrary in this Section, neither the Borrower nor any of its Subsidiaries shall be required to execute or deliver any instrument or document or take any action with respect to any property or asset (i) that is excluded from the definition of Collateral pursuant to the terms of the Security Agreement or (ii) as to which the Administrative Agent and the Borrower reasonably determine that the costs of taking such action are excessive in relation to the benefit to the Lenders of the security to be afforded thereby.

6.13 Compliance with Environmental Laws. Except to the extent that the failure to do any of the following could not, individually or in the aggregate, be reasonably likely to result in a Material Adverse Effect, (i) comply and use commercially reasonable efforts to cause all lessees and other Persons operating or occupying its properties to comply in all material respects with all applicable Environmental Laws and Environmental Permits; (ii) obtain and renew all Environmental Permits necessary for its operations and properties; and (iii) conduct any investigation, study, sampling and testing, and undertake any cleanup, removal, remedial or other action necessary to remove and clean up all Hazardous Materials from any of its properties, as required by applicable Environmental Laws; provided, however, that neither the Borrower nor any of its Subsidiaries shall be required to undertake any such cleanup, removal, remedial or other action to the extent that its obligation to do so is being contested in good faith and appropriate reserves are being maintained with respect to such circumstances in accordance with GAAP.

6.14 Further Assurances. Promptly upon the reasonable request by the Administrative Agent, or any Lender through the Administrative Agent, (a) correct any material defect or error that may be discovered in any Loan Document or in the execution, acknowledgment, filing or recordation thereof, and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent, or any Lender through the Administrative Agent, may reasonably require from time to time in order to (i) carry out more effectively the purposes of the Loan Documents, (ii) to the fullest extent permitted by applicable law but subject to Section 6.12(e), subject any Loan Party's properties, assets, rights or interests to the Liens now or hereafter intended to be covered by any of the Collateral Documents, (iii) perfect and maintain the validity, effectiveness and priority of any of the Collateral Documents and any of the Liens intended to be created thereunder and (iv) assure, convey, grant, assign, transfer, preserve, protect and confirm more effectively unto the Secured Parties the rights granted or now or hereafter intended to be granted to the Secured Parties under any Loan Document or under any other instrument executed in connection with any Loan Document to which any Loan Party or any of its Subsidiaries is or is to be a party, and cause each of its Subsidiaries to do so.

6.15 Compliance with Terms of Leaseholds. Make all payments and otherwise perform all obligations in respect of all leases of real property to which the Borrower or any of its Subsidiaries is a party, except, in any case, where (i) any obligation thereunder is being

contested in good faith and appropriate reserves are being maintained with respect thereto to the extent required by GAAP or (ii) the failure to do so, either individually or in the aggregate, could not be reasonably likely to have a Material Adverse Effect.

6.16 Interest Rate Hedging. Enter into prior to the date that is 90 days after the Closing Date and maintain at all times thereafter until the third anniversary of the Closing Date, interest rate Swap Contracts on terms and with Persons reasonably acceptable to the Administrative Agent, covering a notional amount such that at least 50% of the Term Loans (taking into account the scheduled amortization of the Term Loans) bears interest at a fixed rate.

6.17 Material Contracts. Perform and observe all the terms and provisions of each Material Contract to be performed or observed by it, except, in any case, where (i) any obligation thereunder is being contested in good faith and appropriate reserves are being maintained with respect thereto to the extent required by GAAP or (ii) the failure to do so, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

ARTICLE VII NEGATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation (other than any Unmatured Surviving Obligations) hereunder shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding (unless cash collateralized in a manner reasonably satisfactory to the L/C Issuer), the Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly:

7.01 Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, or sign or file under the Uniform Commercial Code of any jurisdiction a financing statement that names the Borrower or any of its Subsidiaries as debtor, or assign any accounts or other right to receive income, other than the following:

(a) Liens pursuant to any Loan Document;

(b) Liens existing on the date hereof and listed on Schedule 5.08(b) and any renewals or extensions thereof, provided that (i) the property covered thereby is not changed, (ii) the amount secured or benefited thereby is not increased except as contemplated by Section 7.02(d), (iii) the direct or any contingent obligor with respect thereto is not changed, and (iv) any renewal or extension of the obligations secured or benefited thereby is permitted by Section 7.02(d);

(c) Liens for taxes, assessments or other governmental charges or levies not yet due or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(d) landlords', carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business securing

obligations which are not overdue for a period of more than 60 days or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person to the extent required under GAAP;

(e) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation;

(f) deposits to secure the performance of tenders, bids, trade contracts and leases (other than Indebtedness), statutory or regulatory obligations, surety bonds, insurance obligations, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(g) minor defects or minor imperfections in title and zoning, land use and similar restrictions and easements, rights-of-way, restrictions and other similar encumbrances affecting real property which, in the aggregate, do not materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person, and, in the case of any real property covered by any Mortgage, any Permitted Encumbrances with respect thereto;

(h) Liens securing judgments not constituting an Event of Default under Section 8.01(h), or securing appeal or other surety bonds related to such judgments;

(i) Liens securing Indebtedness permitted under Section 7.02(f); provided that (i) such Liens do not at any time encumber any property other than the property financed by such Indebtedness (or any Permitted Refinancing thereof) and (ii) the Indebtedness secured thereby does not exceed the cost or fair market value, whichever is lower, of the property being acquired on the date of acquisition;

(j) Liens existing on property at the time of its acquisition or existing on property of a Person at the time such Person is merged into or consolidated with the Borrower or any Subsidiary of the Borrower or becomes a Subsidiary of the Borrower (other than Liens on the Equity Interests of any Person that becomes a Subsidiary); provided that such Liens were not created in contemplation of such acquisition, merger, consolidation or Investment and do not extend to any assets other than such acquired property or those of the Person merged into or consolidated with the Borrower or such Subsidiary or acquired by the Borrower or such Subsidiary, and the applicable Indebtedness secured by such Lien is permitted under Section 7.02;

(k) leases, licenses, subleases or sublicenses granted to other Persons in the ordinary course of business which do not (A) interfere in any material respect with the business of the Loan Parties or (B) secure any Indebtedness for borrowed money;

(l) any interest or title of (A) a lessor or sublessor under any lease or sublease or (B) a licensor or sublicensor under any license or sublicense, in each case entered into in the ordinary course of business, so long as such interest or title relate solely to the assets subject thereto;

(m) banker's liens, rights of setoff and other similar Liens that are customary in the banking industry and existing solely with respect to cash and other amounts on deposit in one or more accounts (including securities accounts) maintained by the Borrower or its Subsidiaries;

(n) Liens of a collecting bank arising under Section 4-208 (or its equivalent) of the UCC on the items in the course of collection and documents and proceeds related thereto;

(o) Liens arising from precautionary filings of financing statements under the Uniform Commercial Code of any applicable jurisdictions in respect of operating leases or consignments entered into by the Borrower or its Subsidiaries in the ordinary course of business;

(p) Liens attaching to cash earnest money deposits in connection with any letter of intent or purchase agreement permitted hereunder and Liens on cash deposits held in escrow accounts pursuant to the terms of any purchase agreement permitted hereunder;

(q) Liens in the nature of trustee's Liens granted pursuant to any indenture governing any Indebtedness for borrowed money permitted by Section 7.02, in each case in favor of the trustee under such indenture and securing only obligations to pay compensation to such trustee, to reimburse its expenses and to indemnify it under the terms thereof;

(r) Liens on assets of Foreign Subsidiaries securing obligations of such Foreign Subsidiaries permitted hereunder;

(s) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(t) assignments of accounts or other rights to receive income to the extent permitted under Section 7.05;

(u) escrow deposits of source code in the ordinary course of business in connection with the licensing of intellectual property by the Borrower or any of its Subsidiaries to their customers; and

(v) other Liens so long as the aggregate outstanding amount of Indebtedness and other obligations secured thereby does not exceed \$15,000,000.

7.02 Indebtedness. Create, incur, assume or suffer to exist any Indebtedness, except:

(a) obligations (contingent or otherwise) existing or arising under any Swap Contract, provided that such obligations are (or were) entered into by such Person in the ordinary course of business or pursuant to Section 6.16 (and not for speculative purposes) for the purpose of directly mitigating risks associated with fluctuations in interest rates, commodity prices or foreign exchange rates;

(b) Indebtedness of a Subsidiary of the Borrower owed to the Borrower or another Subsidiary of the Borrower or of the Borrower owed to a Subsidiary of the Borrower, which Indebtedness shall (i) in the case of Indebtedness owed to a Loan Party, constitute “Pledged Debt” under the Security Agreement, (ii) in the case of Indebtedness owed by a Loan Party to a non-Loan Party, be subordinated to the Obligations on terms reasonably acceptable to the Administrative Agent and (iii) be otherwise permitted under the provisions of Section 7.03;

(c) Indebtedness under the Loan Documents;

(d) Indebtedness outstanding on the date hereof and listed on Schedule 7.02 and any Permitted Refinancing thereof;

(e) (i) Guarantees of any Loan Party in respect of Indebtedness otherwise permitted hereunder of the Borrower or any Subsidiary; provided that if the Indebtedness being Guaranteed is subordinated to the Obligations, such Guarantee shall be subordinated to the Guarantee of the Obligations on terms at least as favorable to the Lenders as those contained in the subordination provisions of such Indebtedness, and (ii) Guarantees of any Subsidiary that is not a Loan Party in respect of Indebtedness otherwise permitted hereunder of any Subsidiary that is not a Loan Party;

(f) Indebtedness in respect of Capitalized Leases, Synthetic Lease Obligations and purchase money obligations for fixed or capital assets within the limitations set forth in Section 7.01(i) and any Synthetic Debt and any Permitted Refinancing thereof; provided, however, that the aggregate amount of all such Indebtedness at any one time outstanding shall not exceed \$25,000,000;

(g) Indebtedness of any Person that becomes a Subsidiary of the Borrower after the date hereof in accordance with the terms of Section 7.03, which Indebtedness is existing at the time such Person becomes a Subsidiary of the Borrower and was not incurred solely in contemplation of such Person’s becoming a Subsidiary of the Borrower, and any Permitted Refinancing thereof;

(h) Indebtedness representing deferred compensation to employees of the Borrower or any of its Subsidiaries incurred in the ordinary course of business;

(i) Indebtedness consisting of deferred purchase price or notes issued to current or former officers, managers, consultants, directors and employees (or their respective estates, spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees) to finance the purchase or redemption of Equity Interests of the Borrower in an aggregate principal amount not to exceed \$5,000,000;

(j) unsecured Indebtedness in an aggregate principal amount not to exceed \$250.0 million at any time outstanding;

(k) Indebtedness in respect of (i) performance bonds, bid bonds, surety bonds, workers' compensation claims, performance and completion guarantees and similar obligations, in each case provided in the ordinary course of business, and (ii) appeal bonds;

(l) Indebtedness consisting of netting arrangements and overdraft protections incurred in the ordinary course of business;

(m) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn against insufficient funds in the ordinary course of business; provided that such Indebtedness is promptly covered by the Borrower or any Subsidiary;

(n) Indebtedness of Foreign Subsidiaries in an aggregate principal amount not exceeding \$10,000,000 at any time outstanding;

(o) Indebtedness incurred by the Borrower or any of its Subsidiaries in a Permitted Acquisition or any other Investment expressly permitted hereunder, in each case to the extent constituting indemnification obligations, incentive, non-compete or other similar arrangements, or obligations in respect of purchase price (including earn-outs) or other similar adjustments;

(p) Indebtedness of any Loan Party or other Subsidiary of the Borrower on account of or in respect of letters of credit obtained in the ordinary course of business in connection with foreign operations or branches in an aggregate principal amount not exceeding \$5,000,000 at any time outstanding; and

(q) Indebtedness owing to any insurance company in connection with the financing of any insurance premiums permitted by such insurance company in the ordinary course of business.

It is understood and agreed that any Indebtedness borrowed in a foreign currency shall continue to be permitted under this Section 7.02 notwithstanding any fluctuation in the Dollar amount of such Indebtedness, as long as the outstanding principal balance of such Indebtedness (denominated in its original currency) does not exceed the maximum amount of such Indebtedness (denominated in such currency) permitted to be outstanding on the date such Indebtedness was incurred.

7.03 Investments. Make or hold any Investments, except:

(a) Investments held by the Borrower and its Subsidiaries in the form of Cash Equivalents;

(b) advances to officers, directors and employees of the Borrower and Subsidiaries in an aggregate amount not to exceed \$2,500,000 at any time outstanding, for travel, entertainment, relocation and analogous ordinary business purposes;

(c) (i) Investments by the Borrower and its Subsidiaries in Loan Parties, (ii) Investments by Subsidiaries of the Borrower that are not Loan Parties in other Subsidiaries that are not Loan Parties and (iii) so long as no Event of Default has occurred and is continuing at the time of or would result from such Investment, additional Investments by the Loan Parties in Subsidiaries that are not Loan Parties in an aggregate amount not to exceed \$10,000,000 at any time outstanding;

(d) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof in connection with the settlement of delinquent accounts generated in the ordinary course of business or from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss;

(e) Guarantees permitted by Section 7.02 and Guarantees of obligations (other than Indebtedness) of the Borrower and its Subsidiaries not prohibited hereunder and entered into in the ordinary course of business;

(f) (i) Investments existing on the date of this Agreement and set forth on Schedule 7.03 and (ii) Investments pursuant to any cash management arrangements with Morgan Stanley or any of its Affiliates (other than the Borrower and its Subsidiaries) in a manner consistent with past practices;

(g) Investments in Swap Contracts permitted under Section 7.02(a);

(h) the purchase or other acquisition of Equity Interests in, or all or substantially all of the assets or business of, any Person, or of assets constituting a business unit, a line of business or division of, such Person that, upon the consummation thereof, will be a Subsidiary of the Borrower or will be owned by the Borrower or a Subsidiary of the Borrower (including as a result of a merger or consolidation); provided that, with respect to each purchase or other acquisition made pursuant to this Section 7.03(h) (each of the foregoing, a "Permitted Acquisition"):

(i) any such newly-created or acquired Subsidiary and each applicable Loan Party shall comply, to the extent required, with the requirements of Section 6.12;

(ii) after giving effect to such transaction, the Borrower shall be in compliance with Section 7.07;

(iii) such purchase or other acquisition shall not include or result in any contingent liabilities that could reasonably be expected to have a Material Adverse Effect on the Borrower and its Subsidiaries, taken as a whole (as determined in good faith by the board of directors (or the persons performing similar functions) of the Borrower if the board of directors is otherwise approving such transaction and, in each other case, by a Responsible Officer of the Borrower);

(iv) the total consideration and all assumptions of debt in connection therewith (but excluding the portion paid with Qualified Equity Interests of the Borrower or Equity Net Cash Proceeds from issuance of Qualified Equity Interests of the Borrower that are Not Otherwise Applied) paid by or on behalf of the Borrower and its Subsidiaries for any such purchase or other acquisition, when aggregated with the total such consideration (but excluding the portion paid with Qualified Equity Interests of the Borrower or Equity Net Cash Proceeds from issuance of Qualified Equity Interests of the Borrower that are Not Otherwise Applied) paid by or on behalf of the Borrower and its Subsidiaries for all other purchases and other acquisitions made by the Borrower and its Subsidiaries pursuant to this Section 7.03(h), shall not exceed \$350,000,000 in any fiscal year of the Borrower; provided, further, that the total such consideration (but excluding the portion paid with Qualified Equity Interests of the Borrower or Equity Net Cash Proceeds from issuance of Qualified Equity Interests of the Borrower that are Not Otherwise Applied) paid by or on behalf of the Borrower and its Subsidiaries for all such purchases or acquisitions pursuant to this Section 7.03(h) of such Person (or the assets or business of such Person) that, upon the consummation thereof, will not be wholly-owned directly by the Borrower or one or more of its wholly-owned Subsidiaries (including as a result of a merger or consolidation) shall not exceed \$50,000,000 in any fiscal year of the Borrower;

(v) (A) immediately before and immediately after giving pro forma effect to any such purchase or other acquisition, no Default shall have occurred and be continuing and (B) immediately after giving effect to such purchase or other acquisition, the Borrower and its Subsidiaries shall, on a Pro Forma Basis, be in compliance with all of the covenants set forth in Section 7.11; and

(vi) the Borrower shall have delivered to the Administrative Agent, on behalf of the Lenders, at least five Business Days (or a shorter period reasonably approved by the Administrative Agent) prior to the date on which any such purchase or other acquisition is to be consummated, a certificate of a Responsible Officer, in form and substance reasonably satisfactory to the Administrative Agent, certifying that all of the requirements set forth in this Section 7.03(h) have been satisfied or will be satisfied on or prior to the consummation of such purchase or other acquisition (or, in the case of the requirements of clause (i), will, to the extent applicable, be satisfied within the time periods specified for such satisfaction in Section 6.12);

(i) other Investments (including joint venture and minority investments) not exceeding \$10,000,000 in the aggregate in any fiscal year of the Borrower;

(j) advances of payroll payments to employees in the ordinary course of the business;

(k) loans to directors, officers and employees to purchase Qualified Equity Interests of the Borrower in an aggregate principal amount not to exceed \$5,000,000;

(l) so long as no Default or Event of Default shall have occurred and be continuing or would result therefrom, other Investments in an amount not to exceed 100% of Cumulative Excess Cash Flow that is Not Otherwise Applied;

(m) Investments (A) received in satisfaction or partial satisfaction of accounts from financially troubled account debtors (whether in connection with a foreclosure, bankruptcy, workout or otherwise) and (B) consisting of deposits, prepayments and other credits to suppliers made in the ordinary course of business consistent with the past practices of the Borrower and its Subsidiaries;

(n) the Borrower and its Subsidiaries may (A) acquire and hold accounts receivable owing to any of them if created or acquired in the ordinary course of business and payable or dischargeable in accordance with customary terms, (B) endorse negotiable instruments held for collection or deposit in the ordinary course of business, (C) make lease, utility and other similar deposits (or prepayment thereof) in the ordinary course of business and (D) make pledges and deposits permitted by Section 7.01;

(o) Investments made as a result of the receipt of non-cash consideration from a sale, transfer or other disposition of any asset in compliance with Section 7.05;

(p) Investments of any Person existing at the time such Person becomes a Subsidiary of the Borrower or consolidates or merges with the Borrower or any of the Subsidiaries (including in connection with a Permitted Acquisition) so long as such investments were not made in contemplation of such Person becoming a Subsidiary or of such consolidation or merger;

(q) Investments to the extent that payment for such investments is made solely with Qualified Equity Interests of the Borrower (or Equity Net Cash Proceeds of the issuance thereof that are Not Otherwise Applied); and

(r) Investments consisting of any amounts paid pursuant to any contracts with any Subsidiary, or in respect of any Foreign Subsidiary's operations, providing for payment of amounts on a "cost" or "cost-plus" basis for services performed, or in the form of guarantees of leases or licenses in the ordinary course of business.

7.04 Fundamental Changes. Merge, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except that, so long as no Event of Default exists or would result therefrom:

(a) any Subsidiary may merge or consolidate with or into or may liquidate into (i) the Borrower, provided that the Borrower shall be the continuing or surviving Person, or (ii) any one or more other Subsidiaries, provided that when any Loan Party is merging or consolidating with or liquidating into another Subsidiary, a Loan Party shall be the continuing or surviving Person;

(b) any Loan Party (other than the Borrower) may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to (i) any other Loan Party or (ii) any Subsidiary that is not a Loan Party in connection with an Investment permitted under Section 7.03;

(c) any Subsidiary that is not a Loan Party may dispose of all or substantially all its assets (including any Disposition that is in the nature of a liquidation) to (i) another Subsidiary that is not a Loan Party or (ii) to a Loan Party;

(d) in connection with any acquisition permitted under Section 7.03, any Subsidiary of the Borrower may merge into or consolidate with any other Person or permit any other Person to merge into or consolidate with it; provided that (i) if the Subsidiary party to such merger or consolidation was, immediately prior thereto, a wholly owned Subsidiary of the Borrower, the Person surviving such merger shall be a wholly-owned Subsidiary of the Borrower (it being agreed, however, that this proviso shall not prevent any transaction contemplated by the proviso to Section 7.03(h)(iv)) and (ii) in the case of any such merger to which any Loan Party (other than the Borrower) is a party, such Loan Party is the surviving Person;

(e) in the case of any Subsidiary of the Borrower, pursuant to a transaction otherwise permitted by Section 7.05 (other than Section 7.05(e)); and

(f) any Subsidiary may liquidate or dissolve if the Borrower determines in good faith that such liquidation or dissolution is in the best interests of the Borrower and is not materially disadvantageous to the Lenders.

7.05 Dispositions. Make any Disposition or enter into any agreement to make any Disposition, except:

(a) Dispositions of obsolete, excess or worn out property or property no longer used in the business of the Borrower or its Subsidiaries, whether now owned or hereafter acquired, in the ordinary course of business;

(b) Dispositions of inventory in the ordinary course of business;

(c) Dispositions of equipment or real property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such Disposition are reasonably promptly applied to the purchase price of such replacement property;

(d) Dispositions of property to the Borrower or any of its Subsidiaries; provided that if the transferor of such property is a Loan Party, the transferee thereof must be a Loan Party;

(e) Dispositions permitted by Section 7.04;

(f) Dispositions by the Borrower and its Subsidiaries of property pursuant to sale-leaseback transactions, provided that the book value of all property so Disposed of shall not exceed (i) \$25,000,000 from and after the Closing Date or (ii) \$5,000,000 in any fiscal year;

(g) leases, subleases, licenses or sublicenses of real or personal property in the ordinary course of business, in each case that do not materially interfere with the business of the Borrower and its Subsidiaries;

(h) additional Dispositions by the Borrower and its Subsidiaries; provided that (i) at the time of such Disposition, no Event of Default shall exist or would result from such Disposition, (ii) the aggregate fair market value of all property Disposed of in reliance on this clause (h) shall not exceed \$100,000,000 and (iii) the purchase price for such asset shall be paid to the Borrower or such Subsidiary at least 75% in cash;

(i) so long as no Event of Default shall occur and be continuing, the grant of any option or other right to purchase any asset in a transaction that would be permitted under the provisions of Section 7.05(h);

(j) Disposition of Cash Equivalents;

(k) Disposition of Qualified Equity Interests of the Borrower otherwise permitted hereunder;

(l) discounts or forgiveness of accounts receivable in the ordinary course of business and/or sales thereof in connection with collection or compromise thereof;

(m) cancellations of any intercompany Indebtedness among the Loan Parties or among the non-Loan Parties;

(n) subject to the provisions in the Security Agreement, Dispositions in the ordinary course of business consisting of the abandonment of intellectual property rights (other than any Material Intellectual Property) which, in the good faith determination of the Borrower, are not material to the conduct of the business of the Borrower and its Subsidiaries;

(o) to the extent required by applicable law, the sale or other disposition of a nominal amount of Equity Interests in any Foreign Subsidiary in order to qualify members of the board of directors or equivalent governing body of such Person;

(p) transfer of property subject to Casualty Events upon receipt of the Net Cash Proceeds of such Casualty Event;

(q) dispositions of Investments in joint ventures to the extent required by, or made pursuant to customary buy/sell arrangements between, the joint venture parties set forth in joint venture arrangements and similar binding arrangements;

(r) Investments permitted by Section 7.03 and Restricted Payments permitted under Section 7.06; and

(s) Disposition of Subsidiaries of the Borrower listed in Schedule 7.05.

provided, however, that any Disposition pursuant to Section 7.05 (except pursuant to Sections 7.05(e), (l), (m), (n), (o), (p), (r) and (s) and except for Disposition made from a Loan Party to another Loan Party or from a non-Loan Party to another non-Loan Party) shall be for fair market value.

7.06 Restricted Payments. Declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except that:

(a) each Subsidiary may make Restricted Payments to any Loan Party, and any other Person that owns a direct Equity Interest in such Subsidiary, ratably according to their respective holdings of the type of Equity Interest in respect of which such Restricted Payment is being made;

(b) any Loan Party may make Restricted Payments to, or issue or sell any Equity Interests to, or accept any capital contribution from, any other Loan Party;

(c) the Borrower and each Subsidiary may declare and make dividend payments or other distributions payable solely in the common stock or other common Equity Interests of such Person;

(d) the Borrower and each Subsidiary may purchase, redeem or otherwise acquire its Qualified Equity Interests with the proceeds received from the substantially concurrent issue of new Qualified Equity Interests;

(e) the Borrower may repurchase its Equity Interests from current or former directors, officers or employees of the Borrower or any of its Subsidiaries, their estates, spouses or former spouses or make payments to such persons upon termination of employment or directorship, in connection with the exercise of stock options, stock appreciation rights or similar equity incentives or equity based incentives pursuant to management incentive plans or in connection with the death or disability of such persons in an aggregate amount not to exceed \$5,000,000 in any fiscal year;

(f) if the Permitted Holders shall have made, directly or indirectly, cash equity contributions to the Borrower to fund any Investments or any expenditures that would, by reason of such funding, be excluded from the definition of "Capital Expenditures," and such Investment or expenditure is not made within 10 Business Days after receipt of such equity contributions, the Borrower may return such cash equity contributions to such Permitted Holders;

(g) the Borrower may repurchase Equity Interests to the extent (x) such repurchase is deemed to occur upon the exercise of any options, warrants or other equity awards and (y) such Equity Interests represent a portion of the purchase price of such options, warrants or other equity awards;

(h) the Borrower may make cash payments in lieu of issuing fractional or "odd lot" Equity Interests in connection with the spin-off of the Borrower and its Subsidiaries by Morgan Stanley; and

(i) in addition to the foregoing Restricted Payments, the Borrower may make additional Restricted Payments in an aggregate amount not to exceed \$5,000,000 in any fiscal year; provided that, so long as (i) no Default or Event of Default shall have occurred and be continuing or would result therefrom and (ii) the Consolidated Leverage Ratio as of the date of the making of any such Restricted Payment is not greater than 2.0 to 1.0 (calculated on a Pro Forma Basis and after giving pro forma effect to any such Restricted Payment), such amount may be increased by an amount equal to 100% of Cumulative Excess Cash Flow that is Not Otherwise Applied.

7.07 Change in Nature of Business. Engage in any material line of business substantially different from those lines of business conducted by the Borrower and its Subsidiaries on the date of this Agreement or any business substantially related, incidental or complementary thereto.

7.08 Transactions with Affiliates. Enter into any transaction of any kind with any Affiliate of the Borrower, whether or not in the ordinary course of business, other than on fair and reasonable terms substantially as favorable to the Borrower or such Subsidiary as would be obtainable by the Borrower or such Subsidiary at the time in a comparable arm's length transaction with a Person other than an Affiliate; provided that the foregoing restriction shall not apply to (i) transactions between or among the Loan Parties or transactions between or among Subsidiaries of the Borrower that are not Loan Parties or transactions between a Loan Party and a Subsidiary that is not a Loan Party so long as the terms of such transaction are no less favorable to the Loan Party than it would obtain in a comparable arm's length transaction with a Person not an Affiliate; (ii) Restricted Payments permitted to be made pursuant to Section 7.06 and Investments permitted under Section 7.03 and intercompany transactions, including intercompany Indebtedness and asset transfers, expressly permitted hereunder, (iii) customary directors' fees and expenses, (iv) employment agreements, employee benefit and compensation plans, as determined in good faith by the board of directors or senior management of the Borrower, (v) payments under customary officers' and directors' indemnification arrangements, (vi) transactions with Morgan Stanley or Capital Group International, Inc. and their respective Affiliates (other than the Borrower and its Subsidiaries) pursuant to any agreements or arrangements listed in Schedule 7.08 or otherwise in a manner consistent with past practice, and any payments in connection therewith, (vii) the consummation of the Transaction and all payments to be made in connection therewith, (viii) any tax sharing agreements or arrangements among Loan Parties and other Domestic Subsidiaries or with Morgan Stanley or its Affiliates (other than the Borrower and its Subsidiaries), and any payments in connection therewith or (ix) transactions in which the Borrower or any Subsidiary delivers to the Administrative Agent a letter from an accounting, appraisal or investment banking firm of national standing stating that such transaction is fair to the Borrower or such Subsidiary from a financial point of view and which are approved by a majority of the disinterested members of the board of directors of the Borrower in good faith.

7.09 Burdensome Agreements. Enter into or permit to exist any Contractual Obligation (other than this Agreement or any other Loan Document) that (a) limits the ability (i) of any Subsidiary to make Restricted Payments to any Loan Party or to otherwise transfer property to or invest in any Loan Party, except for any agreement in effect (A) on the date hereof and set forth on Schedule 7.09 or (B) at the time any Subsidiary becomes a Subsidiary of the

Borrower, so long as such agreement was not entered into solely in contemplation of such Person becoming a Subsidiary of the Borrower, (ii) of any Material Domestic Subsidiary to Guarantee the Obligations or (iii) of the Borrower or any other Loan Party to create, incur, assume or suffer to exist Liens on property of such Person securing the Obligations; provided, however, that this clause (iii) shall not prohibit any negative pledge incurred or provided in favor of any holder of Indebtedness permitted under Section 7.02(f) solely to the extent any such negative pledge relates to the property financed by or the subject of such Indebtedness; or (b) requires the grant by a Loan Party of a Lien to secure an obligation of such Person if a Lien is granted to secure another obligation of such Person; provided, however, that this clause (b) shall not prohibit any Contractual Obligation in any instrument or agreement governing any Indebtedness incurred pursuant to Section 7.02(j) requiring the grant by a Loan Party of a Lien to secure such Indebtedness if a Lien is granted to secure another obligation of such Person (other than the Obligations); provided, further, that the foregoing shall not apply to Contractual Obligations which (A) are customary provisions in joint venture agreements and other similar agreements applicable to joint ventures permitted under Section 7.03 and applicable solely to such joint venture, (B) are customary restrictions on leases, subleases, licenses or sublicenses otherwise permitted hereunder so long as such restrictions relate solely to the assets subject thereto, (C) are customary anti-assignment provisions in contracts restricting the assignment of any agreement entered into in the ordinary course of business, (D) are customary restrictions in contracts for the Disposition of any assets or any Subsidiary permitted by Section 7.05, provided that the restrictions in any such contracts shall apply only to such assets or Subsidiary that is to be Disposed of, (E) are customary provisions in leases of real property that prohibit mortgages or pledges of the lessee's interest under such lease, (F) are limitations imposed on any Subsidiary that is not a Loan Party by the terms of any Indebtedness permitted hereunder if such limitation applies only to the assets or property of such Subsidiary securing such Indebtedness, (G) are in effect at the time any Person becomes a Subsidiary and not created in anticipation thereof, (H) (x) exist on the date hereof and are identified on Schedule 7.09 and (y) to the extent Contractual Obligations permitted by clause (x) are set forth in an agreement evidencing Indebtedness, are set forth in any agreement evidencing any permitted renewal, extension or refinancing of such Indebtedness so long as such renewal, extension or refinancing does not expand the scope of such Contractual Obligations, (I) are restrictions contained in the terms of any Indebtedness permitted hereunder or any agreement pursuant to which such Indebtedness was issued if (x) such restriction applies only in the event of a payment default or a default with respect to a financial covenant contained in such Indebtedness or agreement, (y) such restriction is not materially more disadvantageous to the borrower of such Indebtedness than is customary in comparable financings (as determined by the Borrower in good faith) and (z) the Borrower determines that any such restriction will not materially affect the Borrower's ability to make principal or interest payments on the Loans, (J) are provisions imposed by any instrument or agreement governing Indebtedness of any Subsidiary that is not a Loan Party which is permitted by Section 7.02 or (K) arise under applicable law.

7.10 Use of Proceeds. Use the proceeds of any Credit Extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the FRB) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose, in each case, in violation of such Regulation U of the FRB.

7.11 **Financial Covenants.** (a) **Consolidated Interest Coverage Ratio.** Permit the Consolidated Interest Coverage Ratio as of the end of any fiscal quarter of the Borrower to be less than the ratio set forth below opposite such fiscal quarter:

<u>Four Fiscal Quarters Ending</u>	<u>Minimum Consolidated Interest Coverage Ratio</u>
Closing Date through November 30, 2009	3.00:1.00
December 1, 2009 through November 30, 2010	3.50:1.00
December 1, 2010 and thereafter	4.00:1.00

(b) **Consolidated Leverage Ratio.** Permit the Consolidated Leverage Ratio at any time during any period of four fiscal quarters of the Borrower set forth below to be greater than the ratio set forth below opposite such period:

<u>Four Fiscal Quarters Ending</u>	<u>Maximum Consolidated Leverage Ratio</u>
Closing Date through November 30, 2009	3.75:1.00
December 1, 2009 through November 30, 2010	3.50:1.00
December 1, 2010 and thereafter	3.25:1.00

7.12 **Capital Expenditures.** Make any Capital Expenditure, except for Capital Expenditures not exceeding, in the aggregate for the Borrower and its Subsidiaries during each fiscal year set forth below, the amount set forth opposite such fiscal year:

<u>Fiscal Year Ending November 30,</u>	<u>Amount</u>
2008	\$15,000,000
2009	\$15,000,000
2010	\$15,000,000
2011	\$15,000,000
2012	\$20,000,000
2013	\$25,000,000
2014	\$25,000,000

; provided, however, that any portion of any amount set forth above, if not expended in the fiscal year for which it is permitted above, may be carried over for expenditure in the immediately following fiscal year; and provided further that if any such amount is so carried over, it will be deemed used in the applicable subsequent fiscal year before the amount set forth opposite such fiscal year above. In addition to the foregoing Capital Expenditures, the Borrower and its Subsidiaries may make additional Capital Expenditures in an aggregate amount not to exceed 100% of Cumulative Excess Cash Flow that is Not Otherwise Applied.

7.13 Amendments of Organization Documents and Indebtedness. Amend any of its Organization Documents or amend, modify or change in any manner any term or condition of any Indebtedness set forth in Schedule 7.02 the outstanding principal amount of which exceeds the Threshold Amount, except for any refinancing, refunding, renewal or extension thereof permitted by Section 7.02(d), in each case in a manner materially adverse to the Lenders or the Administrative Agent.

7.14 Accounting Changes. Make (a) any change in accounting policies or reporting practices, except as required or permitted by GAAP or otherwise not materially adverse to the Lenders, or (b) any change to its fiscal year; provided that the Borrower may, upon written notice to the Administrative Agent given after the second anniversary of the Closing Date, change the fiscal year end to any other fiscal year end reasonably acceptable to the Administrative Agent, in which case the Borrower and the Administrative Agent will, and are hereby authorized by the other parties hereto to, make any adjustments to this Agreement that are necessary to effect such change.

7.15 Prepayments, Etc. of Indebtedness. Prepay, redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof in any manner, or make any payment in violation of any subordination terms of, any Indebtedness, except (a) the prepayment of the Credit Extensions in accordance with the terms of this Agreement, (b) regularly scheduled or required repayments or redemptions of Indebtedness set forth in Schedule 7.02, (c) in connection with any Permitted Refinancing thereof that is expressly permitted to be incurred pursuant to Section 7.02 and (d) so long as no Default or Event of Default shall have occurred and be continuing or would result therefrom, prepayments, redemption, purchases, defeasances or other satisfaction in an aggregate principal amount not to exceed the sum of (A) 100% of Cumulative Excess Cash Flow that is Not Otherwise Applied, (B) the Equity Net Cash Proceeds from the sale or issuance of Qualified Equity Interests of the Borrower that are Not Otherwise Applied and (C) \$10,000,000.

7.16 Equity Interests of Wholly-Owned Subsidiaries. Permit any wholly owned Subsidiary to become a non-wholly owned Subsidiary, except (i) as a result of or in connection with a dissolution, liquidation, merger, consolidation, amalgamation or disposition of a Subsidiary permitted by Section 7.04 or 7.05 or an Investment permitted by Section 7.03, (ii) so long as such Subsidiary continues to be a Guarantor or (iii) as a result of any sale or issuance of Equity Interests of any Foreign Subsidiary otherwise permitted hereunder.

ARTICLE VIII EVENTS OF DEFAULT AND REMEDIES

8.01 Events of Default. Any of the following shall constitute an Event of Default:

(a) Non-Payment. The Borrower or any other Loan Party fails to (i) pay when and as required to be paid herein, any amount of principal of any Loan or any L/C

Obligation, or (ii) pay within three Business Days after the same becomes due, any interest on any Loan or on any L/C Obligation, any fee due hereunder or any other amount payable hereunder or under any other Loan Document; or

(b) Specific Covenants. The Borrower fails to perform or observe any term, covenant or agreement contained in any of Sections 6.03(a), 6.05(a) (with respect to the Borrower only), 6.12, or Article VII; or

(c) Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in Sections 8.01(a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for 30 days after notice thereof shall have been given to the Borrower by the Administrative Agent or the Required Lenders; or

(d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of the Borrower or any other Loan Party herein, in any other Loan Document, or in any document delivered in connection herewith or therewith shall be incorrect or misleading in any material respects when made or deemed made; or

(e) Cross-Default. (i) Any Loan Party or any Subsidiary thereof (A) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) and such payment is not made within any applicable grace period in respect of any Indebtedness (other than Indebtedness hereunder and Indebtedness under Swap Contracts) having an aggregate principal amount of more than the Threshold Amount, or (B) fails to observe or perform any other agreement or condition relating to any such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause after giving effect to any applicable grace period, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity, provided that this clause (i)(B) shall not apply to secured Indebtedness of a Loan Party or a Subsidiary that becomes due upon the sale or transfer by such Loan Party or Subsidiary of the property or assets securing such Indebtedness, if such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness, or unsecured Indebtedness of a Loan Party or a Subsidiary that does not become due but contains an obligation to offer to purchase such Indebtedness following an asset sale in the event the proceeds of such sale are not reinvested in the business or used to repay a category of Indebtedness that includes the Loans (it being understood that this clause (i)(B) shall apply if such offer to purchase is actually made or required to be made); or (ii) there occurs under any Swap Contract an Early Termination Date (as defined in such Swap Contract) resulting from (A) any event of default under such Swap Contract as to which a Loan Party or any Subsidiary thereof is the Defaulting Party (as defined in such Swap Contract) or (B) any Termination Event (as so defined) under such Swap Contract as to which a Loan Party or any Subsidiary

thereof is an Affected Party (as so defined) and, in either event, the Swap Termination Value owed by such Loan Party or such Subsidiary as a result thereof is greater than the Threshold Amount; or

(f) Insolvency Proceedings, Etc. Any Loan Party or any Subsidiary (other than an Immaterial Subsidiary) thereof institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for 60 calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for 60 calendar days, or an order for relief is entered in any such proceeding; or

(g) Inability to Pay Debts; Attachment. (i) Any Loan Party or any Subsidiary thereof becomes unable or admits in writing its inability or fails generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any such Person and is not released, vacated or fully bonded within 30 days after its issue or levy; or

(h) Judgments. There is entered against any Loan Party or any Subsidiary thereof (i) one or more final judgments or orders for the payment of money in an aggregate amount (as to all such judgments and orders) exceeding the Threshold Amount (to the extent not covered by independent third-party insurance as to which the insurer is rated at least "A" by A.M. Best Company, has been notified of the potential claim and does not dispute coverage), or (ii) any one or more non-monetary final judgments that have, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) there is a period of 30 consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect; or

(i) ERISA. (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in liability of the Borrower under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC in an aggregate amount which could reasonably be expected to result in a Material Adverse Effect, or (ii) the Borrower or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount which could reasonably be expected to result in a Material Adverse Effect; or

(j) Invalidity of Loan Documents. Any material provision of any Loan Document, at any time after its execution and delivery and for any reason other than as

expressly permitted hereunder or thereunder or satisfaction in full of all the Obligations, ceases to be in full force and effect; or any Loan Party or any other Person contests in writing the validity or enforceability of any material provision of any Loan Document; or any Loan Party denies in writing that it has any or further liability or obligation under any material provision of any Loan Document, or purports to revoke, terminate or rescind any material provision of any Loan Document; or

(k) Change of Control. There occurs any Change of Control; or

(l) Collateral Documents. Any Collateral Document after delivery thereof pursuant to Sections 4.01 or 6.12 shall for any reason (other than pursuant to the terms thereof or as a result of a failure by the Collateral Agent to maintain possession of stock certificates and promissory notes actually delivered to it or to file Uniform Commercial Code continuation statements and except to the extent that such loss relates to real property and is covered by a lender's title insurance policy and the related insurer does not dispute coverage) cease to create a valid and perfected first priority Lien (subject to Liens permitted by Section 7.01) on any material portion of the Collateral purported to be covered thereby.

8.02 Remedies upon Event of Default. If any Event of Default occurs and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders, take any or all of the following actions:

(a) declare the commitment of each Lender to make Loans and any obligation of the L/C Issuer to make L/C Credit Extensions to be terminated, whereupon such commitments and obligation shall be terminated;

(b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower;

(c) require that the Borrower Cash Collateralize the L/C Obligations (in an amount equal to the then Outstanding Amount thereof); and

(d) exercise on behalf of itself, the Lenders and the L/C Issuer all rights and remedies available to it, the Lenders and the L/C Issuer under the Loan Documents;

provided, however, that upon the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under the Bankruptcy Code of the United States, the obligation of each Lender to make Loans and any obligation of the L/C Issuer to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Borrower to Cash Collateralize the L/C Obligations as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

8.03 Application of Funds. After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be Cash Collateralized as set forth in the proviso to Section 8.02), any amounts received on account of the Obligations shall be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal and interest but including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Article III) payable to the Administrative Agent in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest and Letter of Credit Fees) payable to the Lenders and the L/C Issuer (including fees, charges and disbursements of counsel to the respective Lenders and the L/C Issuer and amounts payable under Article III), ratably among them in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit Fees and interest on the Loans, L/C Borrowings and other Obligations, ratably among the Lenders and the L/C Issuer in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Loans, L/C Borrowings and amounts owing under Secured Hedge Agreements, ratably among the Lenders, the L/C Issuer and the Hedge Banks in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, to the Administrative Agent for the account of the L/C Issuer, to Cash Collateralize that portion of L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit; and

Last, the balance, if any, after all of the Obligations (other than any Unmatured Surviving Obligations) have been indefeasibly paid in full, to the Borrower or as otherwise required by Law.

Subject to Section 2.03(c), amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Fifth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above, and thereafter applied as provided in clause "Last" above.

ARTICLE IX ADMINISTRATIVE AGENT

9.01 Appointment and Authority. (a) Each of the Lenders and the L/C Issuer hereby irrevocably appoints Bank of America to act on its behalf as the Administrative Agent

hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the L/C Issuer, and solely in the case of Sections 9.06 and 9.10, the Borrower and the other Loan Parties, and the Borrower shall not have rights as a third party beneficiary of any of such provisions other than Sections 9.06 and 9.10.

(b) The Administrative Agent shall also act as the “collateral agent” under the Loan Documents, and each of the Lenders (in its capacities as a Lender, Swing Line Lender (if applicable) and potential Hedge Bank) and the L/C Issuer hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of such Lender and the L/C Issuer for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Administrative Agent, as “collateral agent” and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Section 9.05 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent, shall be entitled to the benefits of all provisions of this Article IX and Article X (including Section 10.04(c)), as though such co-agents, sub-agents and attorneys-in-fact were the “collateral agent” under the Loan Documents) as if set forth in full herein with respect thereto.

9.02 Rights as a Lender. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

9.03 Exculpatory Provisions. The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, the Administrative Agent:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law; and

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 10.01 and 8.02) or (ii) in the absence of its own gross negligence or willful misconduct. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Administrative Agent by the Borrower, a Lender or the L/C Issuer.

The Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Collateral Documents, (v) the value or the sufficiency of any Collateral, or (vi) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

9.04 Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or the L/C Issuer, the Administrative Agent may presume that such condition is satisfactory to such Lender or the L/C Issuer unless the Administrative Agent shall have received notice to the contrary from such Lender or the L/C Issuer prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

9.05 Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

9.06 Resignation of Administrative Agent. The Administrative Agent may at any time give notice of its resignation to the Lenders, the L/C Issuer and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right to appoint a successor, which shall be a bank with an office in the United States or an Affiliate of any such bank with an office in the United States and which shall, unless an Event of Default under Section 8.01(a) or 8.01(f) has occurred and is continuing at such time, be reasonably acceptable to the Borrower (which acceptance shall not be unreasonably delayed). If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may on behalf of the Lenders and the L/C Issuer, appoint a successor Administrative Agent meeting the qualifications (including such acceptance by the Borrower) set forth above; provided that if the Administrative Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (a) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders or the L/C Issuer under any of the Loan Documents, the retiring Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (b) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and the L/C Issuer directly, until such time as the Required Lenders appoint a successor Administrative Agent as provided for above in this Section. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Administrative Agent, and the retiring Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Administrative Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article and Section 10.04 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

Any resignation by Bank of America as Administrative Agent pursuant to this Section shall also constitute its resignation as L/C Issuer and Swing Line Lender. Upon the

acceptance of a successor's appointment as Administrative Agent hereunder, (i) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer and Swing Line Lender, (ii) the retiring L/C Issuer and Swing Line Lender shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents, and (iii) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to the retiring L/C Issuer to effectively assume the obligations of the retiring L/C Issuer with respect to such Letters of Credit.

9.07 Non-Reliance on Administrative Agent and Other Lenders. Each Lender and the L/C Issuer acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender and the L/C Issuer also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

9.08 No Other Duties, Etc. Anything herein to the contrary notwithstanding, none of the Joint Lead Arrangers, Joint Book Managers, Documentation Agent and the Syndication Agent listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender or the L/C Issuer hereunder.

9.09 Administrative Agent May File Proofs of Claim. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the L/C Issuer and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the L/C Issuer and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the L/C Issuer and the Administrative Agent under Sections 2.03(i) and (j), 2.09 and 10.04) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and the L/C Issuer to make such payments to the Administrative Agent and, if the Administrative Agent shall consent to the making of such payments directly to the Lenders and the L/C Issuer, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.09 and 10.04.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or the L/C Issuer any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or the L/C Issuer to authorize the Administrative Agent to vote in respect of the claim of any Lender or the L/C Issuer or in any such proceeding.

9.10 Collateral and Guaranty Matters. The Lenders and the L/C Issuer irrevocably authorize the Administrative Agent, at its option and in its discretion,

(a) to release any Lien on any property granted to or held by the Administrative Agent under any Loan Document (i) upon termination of the Aggregate Commitments and payment in full of all Obligations (other than Unmatured Surviving Obligations) and the expiration or termination of all Letters of Credit (unless cash collateralized in a manner reasonably satisfactory to the L/C Issuer), (ii) that is sold or to be sold as part of or in connection with any sale permitted hereunder or under any other Loan Document, or (iii) if approved, authorized or ratified in writing in accordance with Section 10.01;

(b) to release any Guarantor from its obligations under the Guaranty and its properties from any Lien under any Loan Document if such Person ceases to be a Subsidiary as a result of a transaction permitted hereunder; and

(c) to subordinate any Lien on any property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 7.01(i).

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under the Guaranty pursuant to this Section 9.10. In each case as specified in this Section 9.10, the Administrative Agent will, at the Borrower's expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release of such item of Collateral from the assignment and security interest granted under the Collateral Documents or to subordinate its interest in such item, or to release such Guarantor from its obligations under the Guaranty, in each case in accordance with the terms of the Loan Documents and this Section 9.10.

ARTICLE X
MISCELLANEOUS

10.01 Amendments, Etc. No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders (or by the Administrative Agent or the Collateral Agent, as the case may be, with the consent of the Required Lenders) and the Borrower or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such amendment, waiver or consent shall:

(a) extend or increase the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 8.02) without the written consent of such Lender;

(b) postpone any date fixed by this Agreement or any other Loan Document for any payment (excluding mandatory prepayments) of principal, interest, fees or other amounts due to the Lenders (or any of them) hereunder or under such other Loan Document without the written consent of each Lender entitled to such payment;

(c) reduce the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing, or (subject to clause (vi) of the second proviso to this Section 10.01) any fees or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender entitled to such amount; provided, however, that only the consent of the Required Lenders shall be necessary (i) to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest or Letter of Credit Fees at the Default Rate or (ii) to amend any financial covenant hereunder (or any defined term used therein) even if the effect of such amendment would be to reduce the rate of interest on any Loan or L/C Borrowing or to reduce any fee payable hereunder;

(d) change (i) Section 8.03 in a manner that would alter the pro rata sharing of payments required thereby without the written consent of each Lender directly affected thereby or (ii) the order of application of any reduction in the Commitments or any prepayment of Loans among the Facilities from the application thereof set forth in the applicable provisions of Section 2.05(b) or 2.06(b), respectively, in any manner that materially and adversely affects the Lenders under a Facility without the written consent of (i) if such Facility is the Term A Facility, the Required Term A Lenders, (ii) if such Facility is the Term B Facility, the Required Term B Lenders and (iii) if such Facility is the Revolving Credit Facility, the Required Revolving Lenders;

(e) change (i) any provision of this Section 10.01 or the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder (other than the definitions specified in clause (ii) of this Section 10.01(e)), without the written consent of each Lender or (ii) the definition of "Required Revolving Lenders," "Required Term A Lenders," or "Required Term B Lenders" without the written consent of each Lender under the applicable Facility;

- (f) release all or substantially all of the Collateral in any transaction or series of related transactions, without the written consent of each Lender;
- (g) release all or substantially all of the value of the Guaranty, without the written consent of each Lender, except to the extent the release of any Subsidiary from the Guaranty is permitted pursuant to Section 9.10 (in which case such release may be made by the Administrative Agent acting alone);
- (h) impose any greater restriction on the ability of any Lender under a Facility to assign any of its rights or obligations hereunder without the written consent of (i) if such Facility is the Term A Facility, the Required Term A Lenders, (ii) if such Facility is the Term B Facility, the Required Term B Lenders and (iii) if such Facility is the Revolving Credit Facility, the Required Revolving Lenders;
- (i) waive any condition set forth in Section 4.01, or, in the case of the initial Credit Extension, Section 4.02, without the written consent of the Required Lenders and each Lead Arranger; or
- (j) without limiting the generality of clause (i) above, waive any condition set forth in Section 4.02 as to any Credit Extension under a particular Facility without the written consent of the Required Revolving Lenders, the Required Term A Lenders or the Required Term B Lenders, as the case may be;

and provided further that without limiting any requirement that the same be signed or executed by the Borrower or any other applicable Loan Party, as the case may be, (i) no amendment, waiver or consent shall, unless in writing and signed by the L/C Issuer in addition to the Lenders required above, affect the rights or duties of the L/C Issuer under this Agreement or any Issuer Document relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver or consent shall, unless in writing and signed by the Swing Line Lender in addition to the Lenders required above, affect the rights or duties of the Swing Line Lender under this Agreement; (iii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document; (iv) Section 10.06(h) may not be amended, waived or otherwise modified without the consent of each Granting Lender all or any part of whose Loans are being funded by an SPC at the time of such amendment, waiver or other modification; (v) if the Administrative Agent and the Borrower shall have jointly identified an obvious error or any error or omission of a technical or immaterial nature in any provision of the Loan Documents, then the Administrative Agent and the Borrower shall be permitted to amend such provision and such amendment shall become effective without any further action or consent of any other party to any Loan Document if the same is not objected to in writing by the Required Lenders within five Business Days after notice thereof; (vi) the Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto and (vii) any waiver, amendment or modification of any Loan Document that by its terms affects the rights or duties under such Loan Document of the Lenders under a

Facility (but not the Lenders under any other Facility) may be effected by an agreement or agreements in writing entered into solely by the Borrower and if such affected Facility is (i) the Term A Facility, the Required Term A Lenders, (ii) the Term B Facility, the Required Term B Lenders and (iii) the Revolving Credit Facility, the Required Revolving Lenders. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except that the Commitment of such Lender may not be increased or extended without the consent of such Lender.

Notwithstanding the foregoing, this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent and the Borrower (i) to add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Obligations, (ii) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders and (iii) to permit any such additional credit facilities which are term facilities to share ratably with the Term Loans in the application of prepayments and to permit any such credit facilities which are revolving credit facilities to share ratably with the Revolving Credit Facility in the application of prepayments; provided that no such consent of the Required Lenders shall be required to make any changes contemplated by Section 2.14. In addition, this Agreement may be amended with the written consent of the Administrative Agent, the Borrower and the Lenders providing the relevant Replacement Term Loans (as defined below) to permit the refinancing of all outstanding Term A Loans and Term B Loans (the "Refinanced Term Loans") with a replacement term loan or loans hereunder (the "Replacement Term Loans"); provided that (i) the aggregate principal amount of such Replacement Term Loans shall not exceed the aggregate principal amount of such Refinanced Term Loans, (ii) the weighted average Applicable Rate for such Replacement Term Loans shall not be higher than the weighted average Applicable Rate for such Refinanced Term Loans, (iii) the Weighted Average Life to Maturity of such Replacement Term Loans shall not be shorter than the Weighted Average Life to Maturity of such Refinanced Term Loans at the time of such refinancing (except to the extent of nominal amortization for periods where amortization has been eliminated as a result of prepayment of the Refinanced Term Loans) and (iv) all other terms applicable to such Replacement Term Loans shall be substantially identical to, or less favorable to the Lenders providing such Replacement Term Loans than, those applicable to such Refinanced Term Loans, except to the extent necessary to provide for covenants and other terms applicable to any period after the latest final maturity of the Refinanced Term Loans in effect immediately prior to such refinancing.

Notwithstanding anything herein to the contrary, the Borrower and the Administrative Agent may, without the input or consent of any other Lender, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate in the opinion of the Administrative Agent to effect the provisions of Section 2.14 or Section 7.14.

If any Lender does not consent to a proposed amendment, waiver, consent or release with respect to any Loan Document that requires the consent of each Lender (or all of the Lenders under any Facility) and that has been approved by the Required Lenders (or the

Required Revolving Lenders, the Required Term A Lenders or the Required Term B Lenders, as the case may be), the Borrower may replace such non-consenting Lender in accordance with Section 10.13; provided that such amendment, waiver, consent or release can be effected as a result of the assignment contemplated by such Section (together with all other such assignments required by the Borrower to be made pursuant to this paragraph).

10.02 Notices; Effectiveness; Electronic Communications. (a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Borrower, the Administrative Agent, the L/C Issuer or the Swing Line Lender, to the address, telecopier number, electronic mail address or telephone number specified for such Person on Schedule 10.02; and

(ii) if to any other Lender, to the address, telecopier number, electronic mail address or telephone number specified in its Administrative Questionnaire.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received. Notices sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered through electronic communications to the extent provided in subsection (b) below shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Lenders and the L/C Issuer hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or the L/C Issuer pursuant to Article II if such Lender or the L/C Issuer, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) The Platform. THE PLATFORM IS PROVIDED “AS IS” AND “AS AVAILABLE.” THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Related Parties (collectively, the “Agent Parties”) have any liability to the Borrower, any Lender, the L/C Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower’s or the Administrative Agent’s transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; provided, however, that in no event shall any Agent Party have any liability to the Borrower, any Lender, the L/C Issuer or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

(d) Change of Address, Etc. Each of the Borrower, the Administrative Agent, the L/C Issuer and the Swing Line Lender may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the Borrower, the Administrative Agent, the L/C Issuer and the Swing Line Lender. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, telecopier number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the “Private Side Information” or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender’s compliance procedures and applicable Law, including United States Federal and state securities Laws, to make reference to Borrower Materials that are not made available through the “Public Side Information” portion of the Platform and that may contain material non-public information with respect to the Borrower or its securities for purposes of United States Federal or state securities laws.

(e) Reliance by Administrative Agent, L/C Issuer and Lenders. The Administrative Agent, the L/C Issuer and the Lenders shall be entitled to rely and act upon any notices (including telephonic Committed Loan Notices and Swing Line Loan Notices) purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of

notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify the Administrative Agent, the L/C Issuer, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

10.03 No Waiver; Cumulative Remedies. No failure by any Lender, the L/C Issuer or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

10.04 Expenses; Indemnity; Damage Waiver. (a) Costs and Expenses. The Borrower shall pay (i) all reasonable and documented out-of-pocket expenses incurred by the Lead Arrangers and their respective Affiliates (including the reasonable fees, charges and disbursements of one counsel (together with one local counsel, if necessary, in each relevant jurisdiction for the Lead Arrangers)), in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable and documented out-of-pocket expenses incurred by the L/C Issuer in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent, any Lender or the L/C Issuer (including the fees, charges and disbursements of one counsel (together with one local counsel, if necessary, in each relevant jurisdiction and another counsel if an actual conflict of interest exists among the Administrative Agent, the L/C Issuer and the Lenders) for the Administrative Agent, the Lenders and the L/C Issuer), in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) Indemnification by the Borrower. The Borrower shall indemnify the Administrative Agent (and any sub-agent thereof), each Lender and the L/C Issuer, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the reasonable fees, charges and disbursements of one counsel (together with one local counsel, if necessary, in each relevant jurisdiction) for all Indemnities; provided that the Borrower shall so indemnify for expenses of additional counsel if an actual conflict of interest exists between Indemnities), incurred by any Indemnitee or asserted against any Indemnitee by any third party or by the Borrower or any other Loan Party arising out of, in

connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents, (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by the L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by the Borrower or any of its Subsidiaries, or any Environmental Liability related in any way to the Borrower or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any other Loan Party or any of the Borrower's or such Loan Party's directors, shareholders or creditors, and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence, bad faith or willful misconduct of such Indemnitee (and, upon any such determination pursuant to this clause (x), any indemnification payments with respect to such losses, claims, damages, liabilities or related expenses previously received by such Indemnitee shall be subject to reimbursement by such Indemnitee), (y) result from a claim brought by the Borrower or any other Loan Party against an Indemnitee for material breach of such Indemnitee's obligations hereunder or under any other Loan Document, if the Borrower or such Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction or (z) result from claims of any of the Lenders solely against one or more Lenders (and not by one or more Lenders against the Administrative Agent or the Collateral Agent only in such capacity) that have not resulted from the action, inaction, participation or contribution of the Borrower or its Subsidiaries or any of their respective officers, directors, stockholders, partners, members, employees, agents, representatives or advisors.

(c) Reimbursement by Lenders. To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by it to the Administrative Agent (or any sub-agent thereof), the L/C Issuer or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), the L/C Issuer or such Related Party, as the case may be, such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent) or the L/C Issuer in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) or L/C Issuer in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 2.12(d).

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable law, the Borrower shall not assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee referred to in subsection (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby other than for direct or actual damages resulting from the gross negligence or willful misconduct of such Indemnitee as determined by a final and nonappealable judgment of a court of competent jurisdiction.

(e) Payments. All amounts due under this Section shall be payable not later than ten Business Days after demand therefor.

(f) Survival. The agreements in this Section shall survive the resignation of the Administrative Agent, the L/C Issuer and the Swing Line Lender, the replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations.

10.05 Payments Set Aside. To the extent that any payment by or on behalf of the Borrower is made to the Administrative Agent, the L/C Issuer or any Lender, or the Administrative Agent, the L/C Issuer or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent, the L/C Issuer or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and the L/C Issuer severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders and the L/C Issuer under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

10.06 Successors and Assigns. (a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of Section 10.06(b), (ii) by way of participation in accordance with the provisions of Section 10.06(d), (iii) by way of pledge or assignment of a security interest subject to the

restrictions of Section 10.06(f), or (iv) to an SPC in accordance with the provisions of Section 10.06(h) (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the L/C Issuer and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment(s) and the Loans (including for purposes of this Section 10.06(b)), participations in L/C Obligations and in Swing Line Loans) at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts. (A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment under any Facility and the Loans at the time owing to it under such Facility or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than \$5,000,000, in the case of any assignment in respect of the Revolving Credit Facility or the Term A Facility, or \$1,000,000, in the case of any assignment in respect of the Term B Facility, unless each of the Administrative Agent and, so long as no Event of Default under Section 8.01(a), Section 8.01(f) or Section 8.01(g)(i) has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed); provided, however, that concurrent assignments to members of an Assignee Group and concurrent assignments from members of an Assignee Group to a single Eligible Assignee (or to an Eligible Assignee and members of its Assignee Group) will be treated as a single assignment for purposes of determining whether such minimum amount has been met;

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Commitment assigned, except that this clause (ii) shall not (A) apply to the Swing Line Lender's rights and obligations in respect of Swing Line Loans or (B) prohibit any Lender from assigning all or a portion of its rights and obligations among separate Facilities on a non-pro rata basis;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default under Section 8.01(a), Section 8.01(f) or Section 8.01(g)(i) has occurred and is continuing at the time of such assignment, (2) such assignment is to a Lender, an Affiliate of a Lender, an Approved Fund, MSSF or an Affiliate of MSSF (other than the Borrower or any of its Subsidiaries) or (3) such assignment is in connection with the primary syndication of the Facilities;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of (1) any Term Commitment or Revolving Credit Commitment if such assignment is to a Person that is not a Lender with a Commitment in respect of the applicable Facility, an Affiliate of such Lender, an Approved Fund with respect to such Lender, MSSF or an Affiliate of MSSF (other than the Borrower or any of its Subsidiaries) or (2) any Term Loan to a Person that is not a Lender, an Affiliate of a Lender, an Approved Fund, MSSF or an Affiliate of MSSF (other than the Borrower or any of its Subsidiaries);

(C) the consent of the L/C Issuer (such consent not to be unreasonably withheld or delayed) shall be required for any assignment that increases the obligation of the assignee to participate in exposure under one or more Letters of Credit (whether or not then outstanding); and

(D) the consent of the Swing Line Lender (such consent not to be unreasonably withheld or delayed) shall be required for any assignment in respect of the Revolving Credit Facility;

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of \$3,500; provided, however, that (x) the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment, (y) such fee shall not apply to MSSF and its Affiliates in the case of any assignment by or to MSSF or any of its Affiliates and (z) only one such fee shall be payable in connection with simultaneous assignments by or to two or more Approved Funds. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire;

(v) No Assignment to Borrower. No such assignment shall be made to the Borrower or any of its Subsidiaries, or any of the Borrower's Affiliates (other than MSSF and its Affiliates, excluding the Borrower or any of its Subsidiaries); and

(vi) No Assignment to Natural Persons. No such assignment shall be made to a natural person.

In connection with any waiver, consent or other action requiring Required Lender, Required Revolving Lender, Required Term A Lender or Required Term B Lender consent, notwithstanding anything in this Agreement to the contrary, (x) unless a Default shall have

occurred and is continuing, none of the Borrower's Affiliates shall be permitted to consent (or withhold its consent) with respect to the Loans and Commitments held by such Affiliates that are, in the aggregate, in excess of 10% of the aggregate outstanding amount of any Class of Loans and Commitments or all Loans and Commitments, as the case may be, as of the date of such waiver, consent or action, and for purposes of calculating Required Lender, Required Revolving Lender, Required Term A Lender or Required Term B Lender consent, as the case may be, an amount equal to the aggregate amount of any Loans or Commitments held by such Affiliates that is in excess of such 10% shall be deducted from the aggregate amount of Loans and Commitments outstanding entitled to vote with respect to such Class of Loans and Commitments or all Loans and Commitments, as the case may be, and (y) if a Default shall have occurred and is continuing, none of the Borrower's Affiliates shall be permitted to consent (or withhold its consent) with respect to its Loans and Commitments, and for purposes of calculating Required Lender, Required Revolving Lender, Required Term A Lender or Required Term B Lender consent, as the case may be, an amount equal to the aggregate amount of all Loans or Commitments held by such Affiliates shall be deducted from the aggregate amount of Loans and Commitments outstanding entitled to vote with respect to such Class of Loans and Commitments or all Loans and Commitments, as the case may be.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05 and 10.04 with respect to facts and circumstances occurring prior to the effective date of such assignment. Upon request, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 10.06(d).

(c) Register. The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

Upon its receipt of a duly completed Assignment and Assumption executed by the assigning Lender and an assignee, together with any Note or Notes subject to such assignment, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), any applicable tax forms and the processing and recordation fee referred to in paragraph (b)(iv) of this Section 10.06, if applicable, and any written consent to such assignment required by paragraph (b) of this Section 10.06, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural person or the Borrower or any of its Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in L/C Obligations and/or Swing Line Loans) owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent, the Lenders and the L/C Issuer shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 10.01 that affects such Participant. Subject to subsection (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 10.06(b). To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.13 as though it were a Lender.

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Sections 3.01, 3.04 or 3.05 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 3.01 unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrower, to comply with Section 3.01(e) as though it were a Lender.

(f) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) Electronic Execution of Assignments. The words “execution,” “signed,” “signature,” and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

(h) Special Purpose Funding Vehicles. Notwithstanding anything to the contrary contained herein, any Lender (a “Granting Lender”) may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower (an “SPC”) the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPC to fund any Loan, and (ii) if an SPC elects not to exercise such option or otherwise fails to make all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof or, if it fails to do so, to make such payment to the Administrative Agent as is required under Section 2.12(b)(ii). Each party hereto hereby agrees that (i) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrower under this Agreement (including its obligations under Section 3.04), (ii) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement for which a Lender would be liable (all liability for which shall remain with the Granting Lender), and (iii) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Loan Document, remain the lender of record hereunder. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior debt of any SPC, it will not institute against, or join any other Person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency, or liquidation proceeding under the laws of the United States or any State thereof. Notwithstanding anything to the contrary contained herein, any SPC may (i) with notice to, but without prior consent of the Borrower and the Administrative Agent and with the payment of a processing fee in the amount of \$3,500 (which processing fee (x) may be waived by the Administrative Agent in its sole discretion, (y) shall not be applicable to MSSF and its Affiliates in the case of any assignment by or to MSSF or any of its Affiliates and (z) only one such fee shall be payable in connection with simultaneous assignments by or to two or more Approved Funds), assign all or any portion of its right to receive payment with respect to any Loan to the Granting Lender and (ii) disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or Guarantee or credit or liquidity enhancement to such SPC.

(i) Resignation as L/C Issuer or Swing Line Lender after Assignment. Notwithstanding anything to the contrary contained herein, if at any time Bank of America assigns all of its Revolving Credit Commitment and Revolving Credit Loans pursuant to Section

10.06(b), Bank of America may, (i) upon 30 days' notice to the Borrower and the Lenders, resign as L/C Issuer and/or (ii) upon 30 days' notice to the Borrower, resign as Swing Line Lender. In the event of any such resignation as L/C Issuer or Swing Line Lender, the Borrower shall be entitled to appoint from among the Lenders a successor L/C Issuer or Swing Line Lender hereunder; provided, however, that no failure by the Borrower to appoint any such successor shall affect the resignation of Bank of America as L/C Issuer or Swing Line Lender, as the case may be. If Bank of America resigns as L/C Issuer, it shall retain all the rights, powers, privileges and duties of the L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c)). If Bank of America resigns as Swing Line Lender, it shall retain all the rights of the Swing Line Lender provided for hereunder with respect to Swing Line Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swing Line Loans pursuant to Section 2.04(c). Upon the appointment of a successor L/C Issuer and/or Swing Line Lender, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer or Swing Line Lender, as the case may be, and (b) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to Bank of America to effectively assume the obligations of Bank of America with respect to such Letters of Credit.

10.07 Treatment of Certain Information; Confidentiality. Each of the Administrative Agent, the Lenders and the L/C Issuer agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) on a confidential and need-to-know basis to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, advisors and representatives who need to know such information in connection with the transactions contemplated hereby (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and will be subject to customary confidentiality obligations of professional practice or will agree (which agreement may be oral or pursuant to company policy) to be bound by the terms of this Section 10.07 (or language substantially similar to this Section 10.07), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners) (in which case such Person, to the extent permitted by law, shall inform the Borrower promptly), (c) to the extent required pursuant to the order of any court or administrative agency or in any pending legal or administrative proceeding, or by applicable laws (including for purposes of establishing a "due diligence" defense) or regulations or by any subpoena or similar legal process (in which case such Person, to the extent permitted by law, shall inform the Borrower promptly), (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section 10.07, to (i) any permitted assignee of or Participant in, or any prospective permitted assignee of or Participant in, any of its rights or obligations under this Agreement or any Additional Lender or any potential Additional Lender or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations, (g) with the consent of the

Borrower or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section, (ii) becomes available to the Administrative Agent, any Lender, the L/C Issuer or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower or (iii) is independently developed by such Person.

For purposes of this Section, “Information” means all information received from any Loan Party or any Subsidiary thereof relating to any Loan Party or any Subsidiary thereof or their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or the L/C Issuer on a nonconfidential basis prior to disclosure by any Loan Party or any Subsidiary thereof, provided that, in the case of information received from a Loan Party or any such Subsidiary after the date hereof, such information is clearly identified at the time of delivery as confidential or is delivered pursuant to Sections 6.01, 6.02 or 6.03 hereof. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Each of the Administrative Agent, the Lenders and the L/C Issuer acknowledges that (a) the Information may include material non-public information concerning the Borrower or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable Law, including United States Federal and state securities Laws.

10.08 Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender, the L/C Issuer and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, the L/C Issuer or any such Affiliate to or for the credit or the account of the Borrower against any and all of the obligations of the Borrower owing under this Agreement or any other Loan Document to such Lender or the L/C Issuer, irrespective of whether or not such Lender or the L/C Issuer shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower may be contingent or unmatured or are owed to a branch or office of such Lender or the L/C Issuer different from the branch or office holding such deposit or obligated on such indebtedness. The rights of each Lender, the L/C Issuer and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, the L/C Issuer or their respective Affiliates may have. Each Lender and the L/C Issuer agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

10.09 Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the “Maximum Rate”). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining

whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

10.10 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or PDF (or similar file) by electronic mail shall be effective as delivery of a manually executed counterpart of this Agreement.

10.11 Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

10.12 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

10.13 Replacement of Lenders. If any Lender requests compensation under Section 3.04 or delivers a notice described in Section 3.02, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, if any Lender is a Defaulting Lender or if any other circumstance exists hereunder that gives the Borrower the right to replace a Lender as a party hereto, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in

accordance with and subject to the restrictions contained in, and consents required by, Section 10.06), all of its interests, rights and obligations under this Agreement and the related Loan Documents (or, in the case of a consent which requires the consent of all Lenders under a particular Facility, all of its interests, rights and obligations under such Facility) to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

(a) the Borrower shall have paid to the Administrative Agent the assignment fee specified in Section 10.06(b);

(b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and L/C Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts) (or, in the case of a consent which requires the consent of all Lenders under a particular Facility, such amounts solely with respect to such Facility);

(c) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter; and

(d) such assignment does not conflict with applicable Laws.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

Any Lender being replaced pursuant to this Section 10.13 shall promptly (i) execute and deliver an Assignment and Assumption with respect to such Lender's Commitment and outstanding Loans and participations in L/C Obligations and Swing Line Loans, and (ii) deliver any Notes evidencing such Loans to the Borrower or Administrative Agent.

10.14 Governing Law; Jurisdiction; Etc. (a) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) SUBMISSION TO JURISDICTION. THE BORROWER IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NONEXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT SITTING IN NEW YORK CITY, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT TO WHICH IT IS A PARTY, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING

MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT ANY PARTY MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST ANY OTHER PARTY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) WAIVER OF VENUE. THE BORROWER IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 10.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

10.15 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

10.16 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), the Borrower acknowledges and agrees, and acknowledges its Subsidiaries' understanding, that: (i) (A) the arranging and other

services regarding this Agreement provided by the Administrative Agent and the Lead Arrangers are arm's-length commercial transactions between the Borrower and its Subsidiaries, on the one hand, and the Administrative Agent and the Lead Arrangers, on the other hand, (B) the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) the Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) each of the Administrative Agent and the Lead Arrangers is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrower or any of its Subsidiaries, or any other Person and (B) none of the Administrative Agent and the Lead Arrangers has any obligation to the Borrower or any of its Subsidiaries with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Administrative Agent and the Lead Arrangers and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and its Subsidiaries, and none of the Administrative Agent and the Lead Arrangers has any obligation to disclose any of such interests to the Borrower or any of its Subsidiaries. To the fullest extent permitted by law, the Borrower hereby waives and releases any claims that it may have against the Administrative Agent and the Lead Arrangers with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

10.17 USA PATRIOT Act Notice. Each Lender that is subject to the Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "USA Patriot Act"), it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify each Loan Party in accordance with the USA Patriot Act.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

MSCI INC. (doing business in the State of New York as NY
MSCI Inc.)

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

BANK OF AMERICA, N.A., as a Lender, L/C Issuer and Swing
Line Lender

By: _____

Name: _____

Title: _____

By: _____
Name: _____
Title: _____

MSCI
2007 EQUITY INCENTIVE COMPENSATION PLAN

1. Purpose. The primary purposes of the MSCI 2007 Equity Incentive Compensation Plan are to attract, retain and motivate employees and consultants to compensate them for their contributions to the Company and to align their interests with the interests of the Company.

2. Definitions. Except as otherwise provided in an applicable Award Document, the following capitalized terms shall have the meanings indicated below for purposes of the Plan and any Award:

“Administrator” means the individual or individuals to whom the Committee delegates authority under the Plan in accordance with Section 5(b).

“Award” means any award of Restricted Stock, Stock Units, Options, SARs, Performance-Based Awards or Other Awards (or any combination thereof) made under and pursuant to the terms of the Plan.

“Award Date” means the date specified in a Participant’s Award Document as the grant date of the Award.

“Award Document” means a written document (including in electronic form) that sets forth the terms and conditions of an Award. Award Documents shall be authorized in accordance with Section 13(e).

“Board” means the Board of Directors of MSCI.

“Code” means the Internal Revenue Code of 1986, as amended, and the applicable rulings, regulations and guidance thereunder.

“Committee” means the Compensation Committee of the Board, any successor committee thereto or any other committee of the Board appointed by the Board to administer the Plan or to have authority with respect to the Plan, any subcommittee appointed by such Committee, or any committee of “outside directors,” within the meaning of Section 162(m) of the Code (or any successor provisions thereto), of any corporation within the “affiliated group of corporations” (as defined in Section 1504 of the Code (determined without regard to Section 1504(b))).

“Company” means MSCI and all of its Subsidiaries.

“Eligible Individuals” means the individuals described in Section 6 who are eligible for Awards.

“Fair Market Value” means, with respect to a Share, the fair market value thereof as of the relevant date of determination, as determined in accordance with a valuation methodology approved by the Committee.

“Incentive Stock Option” means an Option that is intended to qualify for special federal income tax treatment pursuant to Sections 421 and 422 of the Code, as now constituted or subsequently amended, or pursuant to a successor provision of the Code, and which is so designated in the applicable Award Document.

“MSCI” means MSCI Inc., a Delaware corporation, which is registered to do business in New York as NY MSCI Inc.

“Option” or **“Stock Option”** means a right, granted to a Participant pursuant to Section 9, to purchase one Share.

“Other Award” means any other form of award authorized under Section 12 of the Plan, including any such Other Award the receipt of which was elected pursuant to Section 13(a).

“Participant” means an individual to whom an Award has been made.

“Performance-Based Award” means any form of award authorized under Section 11 of the Plan.

“Performance Goals” means any one or more of the following measures, each of which may be based on absolute standards or peer industry group comparatives and may be applied at various organizational levels (e.g., corporate, business unit, division): the attainment by a Share of a specified value within or for a specified period of time, earnings per share, earnings before interest expense, taxes, depreciation and amortization, return to stockholders (including dividends), return on equity, earnings, revenues (including but not limited to product revenues and ETF revenues), debt levels, leverage ratios, coverage ratios, return on sales, return on revenues, cash flow or cost reduction goals, operating profit, pretax return on total capital, economic value added, profit margins, sales growth, net income or any combination of the foregoing. The measures may pertain to performance periods of any duration, and may be weighted differently for Participants based on their management level and the extent to which their responsibilities are primarily corporate or business unit-related, and may be based in whole or in part on the performance of the Company, a Subsidiary, division and/or other operational unit under one or more of such measures. In the sole discretion of the Committee, the Committee may amend or adjust the Performance Goals or other terms and conditions of an outstanding Award in recognition of unusual or nonrecurring events affecting the Company or its financial statements or changes in law or accounting principles.

“Plan” means the MSCI 2007 Equity Incentive Compensation Plan, as amended from time to time in accordance with Section 16(e) below.

“Restricted Stock” means Shares granted or sold to a Participant pursuant to Section 7.

“SAR” means a right, granted to a Participant pursuant to Section 10, to receive upon exercise of such right, in cash or Shares (or a combination thereof) as authorized by the Committee, an amount equal to the increase in the Fair Market Value of one Share over a specified exercise price.

“Section 409A” means Section 409A of the Code (or any successor provisions thereto).

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

“**Shares**” means shares of Stock.

“**Stock**” means the class A common stock, par value \$0.01 per share, of MSCI.

“**Stock Unit**” means a right, granted to a Participant pursuant to Section 8, to receive one Share or an amount in cash equal to the Fair Market Value of one Share, as authorized by the Committee.

“**Subsidiary**” means (i) a corporation or other entity with respect to which MSCI, directly or indirectly, has the power, whether through the ownership of voting securities, by contract or otherwise, to elect at least a majority of the members of such corporation’s board of directors or analogous governing body, or (ii) any other corporation or other entity in which MSCI, directly or indirectly, has an equity or similar interest and which the Committee designates as a Subsidiary for purposes of the Plan.

“**Substitute Awards**” means Awards granted upon assumption of, or in substitution for, outstanding awards previously granted by a company or other entity acquired (directly or indirectly) by MSCI or with which MSCI combines.

3. Effective Date and Term of Plan.

(a) *Effective Date.* The Plan shall become effective upon its adoption by the Board, subject to approval by the majority of stockholder(s) of MSCI prior to the date the Company Shares are distributed to public shareholders. Prior to such stockholder approval, the Committee may grant Awards conditioned on stockholder approval, but no Shares may be issued or delivered pursuant to any such Award until the stockholder(s) of MSCI have approved the Plan.

(b) *Term of Plan.* No Awards may be made under the Plan after the date that is 10 years from the date of shareholder approval.

4. Stock Subject to Plan.

(a) *Overall Plan Limit.* The total number of Shares that may be delivered pursuant to Awards shall be 12,500,000 as calculated pursuant to Section 4(c). The number of Shares available for delivery under the Plan shall be adjusted as provided in Section 4(b). Shares delivered under the Plan may be authorized but unissued shares or treasury shares that MSCI acquires in the open market, in private transactions or otherwise.

(b) *Adjustments for Certain Transactions.* In the event of a stock split, reverse stock split, stock dividend, recapitalization, reorganization, merger, consolidation, extraordinary dividend or distribution, split-up, spin-off, split-off, combination, reclassification or exchange of shares, warrants or rights offering to purchase Stock at a price substantially below Fair Market Value or other change in corporate structure or any other event that affects MSCI’s capitalization, the Committee shall equitably adjust (i) the number and kind of shares authorized for delivery under the Plan, including the maximum number of Shares available for stock-based Awards as provided in Section 4(d) and the maximum number of Incentive Stock Options as provided in

Section 4(e), and (ii) the number and kind of shares subject to any outstanding Award and the exercise or purchase price per share, if any, under any outstanding Award. In the discretion of the Committee, such an adjustment may take the form of a cash payment to a Participant. The Committee shall make all such adjustments, and its determination as to what adjustments shall be made, and the extent thereof, shall be final. Unless the Committee determines otherwise, such adjusted Awards shall be subject to the same vesting schedule and restrictions to which the underlying Award is subject.

(c) *Calculation of Shares Available for Delivery.* In calculating the number of Shares that remain available for delivery pursuant to Awards at any time, the following rules shall apply (subject to the limitation in Section 4(e)):

1. The number of Shares available for delivery shall be reduced by the number of Shares subject to an Award and, in the case of an Award that is not denominated in Shares, the number of Shares actually delivered upon payment or settlement of the Award.

2. The number of Shares tendered (by actual delivery or attestation) or withheld from an Award to pay the exercise price of the Award or to satisfy any tax withholding obligation or liability of a Participant shall be added back to the number of Shares available for delivery pursuant to Awards.

3. The number of Shares in respect of any portion of an Award that is canceled or that expires without having been paid or settled by the Company shall be added back to the number of Shares available for delivery pursuant to Awards to the extent such Shares were counted against the Shares available for delivery pursuant to clause (1).

4. If an Award is settled or paid by the Company in whole or in part through the delivery of consideration other than Shares, or by delivery of fewer than the full number of Shares that was counted against the Shares available for delivery pursuant to clause (1), there shall be added back to the number of Shares available for delivery pursuant to Awards the excess of the number of Shares that had been so counted over the number of Shares (if any) actually delivered upon payment or settlement of the Award.

(d) *Individual Limits on Stock-based Awards.* The maximum number of Shares that may be subject to Options or SARs granted to or elected by a Participant in any fiscal year shall be 5,000,000. Additionally, the maximum number of Shares that may be subject to any other type of Award granted to or elected by a Participant in any fiscal year shall be 5,000,000.

(e) *ISO Limit.* The full number of Shares available for delivery under the Plan may be delivered pursuant to Incentive Stock Options, except that in calculating the number of Shares that remain available for Awards of Incentive Stock Options the rules set forth in Section 4(c) shall not apply to the extent not permitted by Section 422 of the Code.

5. Administration.

(a) *Committee Authority Generally.* The Committee shall administer the Plan and shall have full power and authority to make all determinations under the Plan, subject to the express

provisions hereof, including without limitation: (i) to select Participants from among the Eligible Individuals; (ii) to make Awards; (iii) to determine the number of Shares subject to each Award or the cash amount payable in connection with an Award; (iv) to establish the terms and conditions of each Award, including, without limitation, those related to vesting, cancellation, payment, and exercisability, and the effect, if any, of certain events on a Participant's Awards, such as the Participant's termination of employment with the Company; (v) to specify and approve the provisions of the Award Documents delivered to Participants in connection with their Awards; (vi) to construe and interpret any Award Document delivered under the Plan; (vii) to prescribe, amend and rescind rules and procedures relating to the Plan; (viii) to make all determinations necessary or advisable in administering the Plan and Awards, including without limitation determinations as to whether (and if so as of what date) a Participant has commenced, or has experienced a termination of, employment; provided, however, that to the extent full or partial payment of any Award that constitutes a deferral of compensation subject to Section 409A is made upon or as a result of a Participant's termination of employment, the Participant will be considered to have experienced a termination of employment if, and only if, the Participant has experienced a separation from service with the Participant's employer for purposes of Section 409A; (ix) to vary the terms of Awards to take account of securities law and other legal or regulatory requirements of jurisdictions in which Participants work or reside or to procure favorable tax treatment for Participants; and (x) to formulate such procedures as it considers to be necessary or advisable for the administration of the Plan.

(b) *Delegation.* To the extent not prohibited by applicable laws or rules of the exchange of primary listing, the Committee may from time to time delegate some or all of its authority under the Plan to one or more Administrators consisting of one or more members of the Committee as a subcommittee or subcommittees thereof or of one or more members of the Board who are not members of the Committee or one or more officers of the Company (or of any combination of such persons). Any such delegation shall be subject to the restrictions and limits that the Committee specifies at the time of such delegation or thereafter. The Committee may at any time rescind all or part of the authority delegated to an Administrator or appoint a new Administrator. At all times, an Administrator appointed under this Section 5(b) shall serve in such capacity at the pleasure of the Committee. Any action undertaken by an Administrator in accordance with the Committee's delegation of authority shall have the same force and effect as if undertaken directly by the Committee, and any reference in the Plan to the Committee shall, to the extent consistent with the terms and limitations of such delegation, be deemed to include a reference to an Administrator.

(c) *Authority to Construe and Interpret.* The Committee shall have full power and authority, subject to the express provisions hereof, to construe and interpret the Plan.

(d) *Committee Discretion.* All of the Committee's determinations in carrying out, administering, construing and interpreting the Plan shall be made or taken in its sole discretion and shall be final, binding and conclusive for all purposes and upon all persons. In the event of any disagreement between the Committee and an Administrator, the Committee's determination on such matter shall be final and binding on all interested persons, including any Administrator. The Committee's determinations under the Plan need not be uniform and may be made by it selectively among persons who receive, or are eligible to receive, Awards under the Plan (whether or not such persons are similarly situated). Without limiting the generality of the

foregoing, the Committee shall be entitled, among other things, to make non-uniform and selective determinations, and to enter into non-uniform and selective Award Documents, as to the persons receiving Awards under the Plan, and the terms and provisions of Awards under the Plan.

(e) *No Liability.* Subject to applicable law: (i) no member of the Committee or any Administrator shall be liable for anything whatsoever in connection with the exercise of authority under the Plan or the administration of the Plan except such person's own willful misconduct; (ii) under no circumstances shall any member of the Committee or any Administrator be liable for any act or omission of any other member of the Committee or an Administrator; and (iii) in the performance of its functions with respect to the Plan, the Committee and an Administrator shall be entitled to rely upon information and advice furnished by the Company's officers, the Company's accountants, the Company's counsel and any other party the Committee or the Administrator deems necessary, and no member of the Committee or any Administrator shall be liable for any action taken or not taken in good faith reliance upon any such advice.

6. Eligibility. Eligible Individuals shall include all officers, other employees (including prospective employees), consultants of and other persons who perform services for, the Company, non-employee directors of Subsidiaries and employees and consultants of joint ventures, partnerships or similar business organizations in which MSCI or a Subsidiary has an equity or similar interest. Any Award made to a prospective employee shall be conditioned upon, and effective not earlier than, such person's becoming an employee. An individual's status as an Administrator will not affect his or her eligibility to receive Awards under the Plan.

7. Restricted Stock. An Award of Restricted Stock shall be subject to the terms and conditions established by the Committee in connection with the Award and specified in the applicable Award Document. Restricted Stock may, among other things, be subject to restrictions on transfer, vesting requirements or cancellation under specified circumstances.

8. Stock Units. An Award of Stock Units shall be subject to the terms and conditions established by the Committee in connection with the Award and specified in the applicable Award Document. Each Stock Unit awarded to a Participant shall correspond to one Share. Upon satisfaction of the terms and conditions of the Award, a Stock Unit will be payable, at the discretion of the Committee, in Stock or in cash equal to the Fair Market Value on the payment date of one Share. As a holder of Stock Units, a Participant shall have only the rights of a general unsecured creditor of MSCI. A Participant shall not be a stockholder with respect to the Shares underlying Stock Units unless and until the Stock Units convert to Shares. Stock Units may, among other things, be subject to restrictions on transfer, vesting requirements or cancellation under specified circumstances.

9. Options.

(a) *Options Generally.* An Award of Options shall be subject to the terms and conditions established by the Committee in connection with the Award and specified in the applicable Award Document. The Committee shall establish (or shall authorize the method for establishing) the exercise price of all Options awarded under the Plan, except that the exercise

price of an Option shall not be less than 100% of the Fair Market Value of one Share on the Award Date. Notwithstanding the foregoing, the exercise price of an Option that is a Substitute Award may be less than the Fair Market Value per Share on the Award Date, provided that such substitution complies with applicable laws and regulations, including the listing requirements of the exchange of primary listing and Section 409A or Section 424 of the Code, as applicable. Upon satisfaction of the conditions to exercisability of the Award, a Participant shall be entitled to exercise the Options included in the Award and to have delivered, upon MSCI's receipt of payment of the exercise price and completion of any other conditions or procedures specified by MSCI, the number of Shares in respect of which the Options shall have been exercised. Options may be either nonqualified stock options or Incentive Stock Options. Options and the Shares acquired upon exercise of Options may, among other things, be subject to restrictions on transfer, vesting requirements or cancellation under specified circumstances.

(b) *Prohibition on Restoration Option Grants.* Anything in the Plan to the contrary notwithstanding, the terms of an Option shall not provide that a new Option will be granted, automatically and without additional consideration in excess of the exercise price of the underlying Option, to a Participant upon exercise of the Option.

(c) *Prohibition on Repricing of Options and SARs.* Anything in the Plan to the contrary notwithstanding, the Committee may not reprice any Option or SAR. "Reprice" means any of the following or any other action that has the same effect: (i) amending an Option or SAR to reduce its exercise price, (ii) canceling an Option or SAR at a time when its exercise price exceeds the Fair Market Value of one Share in exchange for an Option, SAR, Restricted Stock, Stock Unit, Performance-Based Award or Other Award, unless the cancellation or exchange occurs in connection with a merger, acquisition, spin-off or other similar corporate transaction; or (iii) taking any other action that is treated as a repricing under generally accepted accounting principles; *provided, however*, that adjustments pursuant to Section 4(b) shall not be deemed to be a repricing that is prohibited by this Section 9(c).

(d) *Payment of Exercise Price.* Subject to the provisions of the applicable Award Document and to the extent authorized by rules and procedures of MSCI from time to time, the exercise price of the Option may be paid in cash, by actual delivery or attestation to ownership of freely transferable Shares already owned by the person exercising the Option, or by such other means as MSCI may authorize.

(e) *Maximum Term on Stock Options and SARs.* No Option or SAR shall have an expiration date that is later than the tenth anniversary of the Award Date thereof.

10. SARs. An Award of SARs shall be subject to the terms and conditions established by the Committee in connection with the Award and specified in the applicable Award Document. The Committee shall establish (or shall authorize the method for establishing) the exercise price of all SARs awarded under the Plan, except that the exercise price of a SAR shall not be less than 100% of the Fair Market Value of one Share on the Award Date. Notwithstanding the foregoing, the exercise price of any SAR that is a Substitute Award may be less than the Fair Market Value of one Share on the Award Date, subject to the same conditions set forth in Section 9(a) for Options that are Substitute Awards. Upon satisfaction of the conditions to the payment of the Award, each SAR shall entitle a Participant to an amount, if any, equal to the Fair Market Value

of one Share on the date of exercise over the SAR exercise price specified in the applicable Award Document. At the discretion of the Committee, payments to a Participant upon exercise of a SAR may be made in Shares, cash or a combination thereof. SARs and the Shares that may be acquired upon exercise of SARs may, among other things, be subject to restrictions on transfer, vesting requirements or cancellation under specified circumstances.

11. Performance-Based Awards. The Committee is authorized to grant Performance-Based Awards denominated in cash, Shares, Other Awards or a combination thereof, subject to the following terms and conditions and to such other terms and conditions, not inconsistent herewith, as the Committee shall determine. Performance-Based Awards granted under the Plan may be earned upon achievement or satisfaction of Performance Goals or any other performance conditions specified by the Committee. In addition, the Committee may specify that any other Award shall constitute a Performance-Based Award by conditioning the right of a participant to exercise the Award or have it settled, and the timing thereof, upon achievement or satisfaction of such performance conditions as may be specified by the Committee. The Committee may use such business criteria and other measures of performance as it may deem appropriate in establishing any performance conditions, and may exercise its discretion to reduce or increase the amounts payable under any Award subject to performance conditions. Notwithstanding the foregoing, the Committee may not exercise its discretion to increase the amounts payable under any Award subject to performance conditions which are intended to comply with Section 162(m) of the Code.

12. Other Awards. The Committee shall have the authority to establish the terms and provisions of other forms of equity-based or equity-related Awards (such terms and provisions to be specified in the applicable Award Document) not described above that the Committee determines to be consistent with the purpose of the Plan and the interests of the Company, which Awards may provide for (i) cash or Stock payments based in whole or in part on the value or future value of Stock or on any amount that MSCI pays as dividends or otherwise distributes with respect to Stock, (ii) the acquisition or future acquisition of Stock, (iii) cash or Stock payments (including payment of dividend equivalents in cash or Stock) based on one or more criteria determined by the Committee unrelated to the value of Stock, or (iv) any combination of the foregoing. The Committee also shall have the authority, without limitation, to grant annual cash incentive awards to Eligible Individuals and to establish the terms and provisions of such cash incentive awards. Awards pursuant to this Section 12 may, among other things, be made subject to restrictions on transfer, vesting requirements or cancellation under specified circumstances.

13. General Terms and Provisions.

(a) *Awards in General.* Awards may, in the discretion of the Committee, be made in substitution in whole or in part for cash or other compensation payable to an Eligible Individual. In accordance with rules and procedures authorized by the Committee, an Eligible Individual may elect one form of Award in lieu of any other form of Award, or may elect to receive an Award in lieu of all or part of any compensation that otherwise might have been paid to such Eligible Individual; *provided, however,* that any such election shall not require the Committee to make any Award to such Eligible Individual. Any such substitute or elective Awards shall have terms and conditions consistent with the provisions of the Plan applicable to such Award.

Awards may be granted in tandem with, or independent of, other Awards. The grant, vesting or payment of an Award may, among other things, be conditioned on the attainment of performance objectives, including without limitation objectives based in whole or in part on net income, pre tax income, return on equity, earnings per share, total shareholder return or book value per share.

(b) *Discretionary Awards.* All grants of Awards and deliveries of Shares, cash or other property under the Plan shall constitute a special discretionary incentive payment to the Participant and shall not be required to be taken into account in computing the amount of salary, wages or other compensation of the Participant for the purpose of determining any contributions to or any benefits under any pension, retirement, profit-sharing, bonus, life insurance, severance or other benefit plan of the Company or other benefits from the Company or under any agreement with the Participant, unless MSCI specifically provides otherwise.

(c) *Dividends and Distributions.* If MSCI pays any dividend or makes any distribution to holders of Stock, the Committee may in its discretion authorize payments (which may be in cash, Stock (including Restricted Stock) or Stock Units or a combination thereof) with respect to the Shares corresponding to an Award, or may authorize appropriate adjustments to outstanding Awards, to reflect such dividend or distribution. The Committee may make any such payments subject to vesting, deferral, restrictions on transfer or other conditions. Any determination by the Committee with respect to a Participant's entitlement to receive any amounts related to dividends or distributions to holders of Stock, as well as the terms and conditions of such entitlement, if any, will be part of the terms and conditions of the Award, and will be included in the Award Document for such Award.

(d) *Deferrals.* In accordance with the procedures authorized by, and subject to the approval of, the Committee, Participants may be given the opportunity to defer the payment or settlement of an Award to one or more dates selected by the Participant. The Committee shall set forth in writing (which may be in electronic form), on or before the date the applicable deferral election is required to be irrevocable in order to meet the requirements of Section 409A, the conditions under which such election may be made. In connection with such deferral, the Committee may provide that Awards so deferred may be credited with a notional return during the period of deferral based upon the corresponding return on one or more investments designated by the Committee or elected by the Participant in accordance with the procedures established by the Committee for this purpose. Notwithstanding any other authority granted to it, the Committee shall not have authority to accelerate the payment or settlement of any Award granted under the Plan that constitutes a deferral of compensation subject to Section 409A, except to the extent that such acceleration is permitted under Section 409A and would not cause a Participant to recognize income for United States federal income tax purposes prior to the time of payment, settlement or exercise of the Award or to incur interest or additional tax under Section 409A.

(e) *Award Documentation and Award Terms.* The terms and conditions of an Award shall be set forth in an Award Document authorized by the Committee. The Award Document shall include any vesting, exercisability, payment and other restrictions applicable to an Award (which may include, without limitation, the effects of termination of employment, cancellation of the Award under specified circumstances, restrictions on transfer or provision for mandatory resale to the Company).

14. Certain Restrictions.

(a) *Stockholder Rights.* No Participant (or other persons having rights pursuant to an Award) shall have any of the rights of a stockholder of MSCI with respect to Shares subject to an Award until the delivery of the Shares, which shall be effected by entry of the Participant's (or other person's) name in the share register of MSCI or by such other procedure as may be authorized by MSCI. Except as otherwise provided in Section 4(b) or 13(c), no adjustments shall be made for dividends or distributions on, or other events relating to, Shares subject to an Award for which the record date is prior to the date such Shares are delivered. Except for the

risk of cancellation and any restrictions on transfer that may apply to certain Shares (including restrictions relating to any dividends or other rights) as may be set forth in the applicable Award Document, the Participant shall be the beneficial owner of any Shares delivered to the Participant in connection with an Award and, upon such delivery shall be entitled to all rights of ownership, including, without limitation, the right to vote the Shares and to receive cash dividends or other dividends (whether in Shares, other securities or other property) thereon.

(b) *Transferability.* No Award granted under the Plan shall be transferable, whether voluntarily or involuntarily, other than by will or by the laws of descent and distribution or as otherwise provided for by the Committee.

15. Representation; Compliance with Law. The Committee may condition the grant, exercise, settlement or retention of any Award on the Participant making any representations required in the applicable Award Document. Each Award shall also be conditioned upon the making of any filings and the receipt of any consents or authorizations required to comply with, or required to be obtained under, applicable law.

16. Miscellaneous Provisions.

(a) *Satisfaction of Obligations.* Notwithstanding any other authority granted to it, the Committee shall not have the authority to offset from the payment of any Award any amount that a Participant owes to the Company that constitutes a deferral of compensation subject to Section 409A, except to the extent such offset is permitted by Section 409A and would not cause a Participant to recognize income for United States federal income tax purposes prior to the time of payment of the Award or to incur interest or additional tax under Section 409A. Subject to the preceding sentence, as a condition to the making or retention of any Award, the vesting, exercise or payment of any Award or the lapse of any restrictions pertaining thereto, the Company may require a Participant to pay such sum to the Company as may be necessary to discharge the Company's obligations with respect to any taxes, assessments or other governmental charges (including FICA and other social security or similar tax) imposed on property or income received by a Participant pursuant to the Award. In accordance with rules and procedures authorized by the Company, (i) such payment may be in the form of cash or other property, including the tender of previously owned Shares, and (ii) in satisfaction of such taxes, assessments or other governmental charges or, exclusively in the case of an Award that does not constitute a deferral of compensation subject to Section 409A, of other obligations that a Participant owes to the Company, the Company may make available for delivery a lesser number of Shares in payment or settlement of an Award, may withhold from any payment or distribution of an Award or may enter into any other suitable arrangements to satisfy such withholding or other obligation.

(b) *No Right to Continued Employment.* Neither the Plan nor any Award shall give rise to any right on the part of any Participant to continue in the employ of the Company.

(c) *Headings.* The headings of sections herein are included solely for convenience of reference and shall not affect the meaning of any of the provisions of the Plan.

(d) *Governing Law.* The Plan and all rights hereunder shall be construed in accordance with and governed by the laws of the State of New York, without regard to any conflicts or choice of law, rule or principle that might otherwise refer the interpretation of the Award to the substantive law of another jurisdiction.

(e) *Amendments and Termination.* The Board or Committee may modify, amend, suspend or terminate the Plan in whole or in part at any time and may modify or amend the terms and conditions of any outstanding Award (including by amending or supplementing the relevant Award Document at any time); provided, however, that no such modification, amendment, suspension or termination shall, without a Participant's consent, materially adversely affect that Participant's rights with respect to any Award previously made; and provided, further, that the Committee shall have the right at any time, without a Participant's consent and whether or not the Participant's rights are materially adversely affected thereby, to amend or modify the Plan or any Award under the Plan in any manner that the Committee considers necessary or advisable to comply with any law, regulation, ruling, judicial decision, accounting standards, regulatory guidance or other legal requirement. Notwithstanding the preceding sentence, neither the Board nor the Committee may accelerate the payment or settlement of any Award, including, without limitation, any Award subject to a prior deferral election, that constitutes a deferral of compensation for purposes of Section 409A except to the extent such acceleration would not result in the Participant incurring interest or additional tax under Section 409A. No amendment to the Plan may render any Board member who is not a Company employee eligible to receive an Award at any time while such member is serving on the Board. To the extent required by applicable law or the rules of the exchange of primary listing, amendments to the Plan shall not be effective unless they are approved by MSCI's stockholders.

MSCI
INDEPENDENT DIRECTORS' EQUITY COMPENSATION PLAN

Section 1. Purpose

MSCI Inc., a Delaware corporation, which is registered to do business in New York as NY MSCI Inc. (the "**Company**"), hereby adopts the MSCI Independent Directors' Equity Compensation Plan (the "**Plan**"). The purpose of the Plan is to promote the long-term growth and financial success of the Company by attracting, motivating and retaining independent directors of outstanding ability and assisting the Company in promoting a greater identity of interest between the Company's independent directors and its stockholders.

Capitalized terms used herein without definition have the meanings ascribed thereto in Section 20.

Section 2. Eligibility

Only directors of the Company who are not employees of the Company or Morgan Stanley or any of their affiliates (the "**Eligible Directors**") shall participate in the Plan.

Section 3. Plan Operation

(a) Administration. The Plan requires no discretionary action by any administrative body with regard to any transaction under the Plan. To the extent, if any, that questions of administration arise, these shall be resolved by the Board. To the extent legally permitted, the Board may, in its discretion, delegate to the Chief Financial Officer, the Chief Legal Officer, the Secretary of the Company or to one or more officers of the Company any or all authority and responsibility to act with respect to administrative matters with respect to the Plan. All references to the "**Plan Administrator**" in the Plan shall refer to the Board, or the Chief Financial Officer, the Chief Legal Officer, the Secretary or to one or more officers of the Company if the Board has delegated its authority pursuant to this Section 3(a). The determination of the Plan Administrator on all matters within their authority relating to the Plan shall be conclusive.

(b) No Liability. The Plan Administrator shall not be liable for any action or determination made in good faith with respect to the Plan or any award hereunder, and the Company shall indemnify and hold harmless the Plan Administrator from all losses and expenses (including reasonable attorneys' fees) arising from the assertion or judicial determination of any such liability.

Section 4. Shares of Stock Subject to the Plan

(a) Stock. Awards under the Plan shall relate to shares of Stock.

(b) Shares Available for Awards. Subject to Section 4(c) (relating to adjustments upon changes in capitalization), as of any date, the total number of authorized shares of Stock with respect to which awards may be granted under the Plan shall be equal to the excess (if any) of (i) 500,000 shares over (ii) the sum of (a) the number of shares subject to outstanding awards

granted under the Plan and (b) the number of shares previously issued pursuant to the Plan. For purposes of clarification, any Stock granted to Eligible Directors under the Plan in connection with Section 8 shall not reduce the total number of authorized shares of Stock with respect to which awards may be granted under the Plan. In accordance with (and without limitation upon) the preceding sentence, shares of Stock covered by awards granted under the Plan that are canceled or expire unexercised shall again become available for awards under the Plan. Shares of Stock that shall be issuable pursuant to the awards granted under the Plan shall be authorized and unissued shares, treasury shares or shares of Stock purchased by, or on behalf of, the Company in open-market transactions.

(c) Adjustments. In the event of any merger, reorganization, recapitalization, consolidation, sale or other distribution of substantially all of the assets of the Company, any stock dividend, split, spin-off, split-up, split-off, distribution of cash, securities or other property by the Company, or other change in the Company's corporate structure affecting the Stock, then the following shall be automatically adjusted in order to prevent dilution or enlargement of the benefits or potential benefits intended to be awarded under the Plan:

- (i) the aggregate number of shares of Stock reserved for issuance under the Plan;
- (ii) the number and, if applicable, type of shares of Stock subject to outstanding awards; or
- (iii) the number of Stock Units granted pursuant to Section 5(a) of the Plan or pursuant to any other automatic awards that may be provided for under the Plan in the future.

(d) Types of Award. The Company's stockholders approved the Plan on November 2, 2007. The types of award authorized by the stockholders under the Plan are Stock Units and shares of Stock awarded at an Eligible Director's election pursuant to Section 8.

Section 5. Annual Awards of Stock Units

(a) Awards Granted.

(i) IPO Award. If a person is elected, appointed or otherwise becomes an Eligible Director on or prior to the IPO Effective Date, such Eligible Director will be granted a number of Stock Units equal to the number obtained by dividing \$50,000 by the IPO Price on the IPO Effective Date.

(ii) Prorated IPO Award. If a person is elected, appointed or otherwise becomes an Eligible Director after the IPO Effective Date but prior to the first Annual Meeting, such Eligible Director will be granted a number of Stock Units equal to the number obtained by dividing \$50,000 by the Fair Market Value of a share of Stock on the date such person becomes an Eligible Director (the "**Full Grant Number**") adjusted on a *pro rata* basis by multiplying such Full Grant Number by a fraction where the numerator is the number of days between the date that such person becomes an Eligible Director and May 1, 2008 and the denominator is 365, and such award will be granted on the date such person becomes an Eligible Director.

(iii) Annual Award. On the date of each Annual Meeting, each Eligible Director will be granted a number of Stock Units equal to the number obtained by dividing \$50,000 by the Fair Market Value of a share of Stock on the date of the Annual Meeting.

(iv) Prorated Annual Award. If a person is elected, appointed or otherwise becomes an Eligible Director after the first Annual Meeting and at a time other than any Annual Meeting, such Eligible Director will be granted a number of Stock Units equal to the Full Grant Number adjusted on a *pro rata* basis by multiplying such Full Grant Number by a fraction where the numerator is 365 *minus* the number of days between the date of the last Annual Meeting and the date that such person becomes an Eligible Director and the denominator is 365, and such award will be granted on the date such person becomes an Eligible Director.

(b) Agreements. Each Stock Unit granted pursuant to this Section 5 shall be evidenced by an agreement in such form as the Board prescribes from time to time and shall comply with the following terms and conditions:

(i) Restriction Period. Stock Units granted pursuant to Section 5(a)(i) or 5(a)(ii) shall be subject to a restriction period whereby 100% of such units shall vest on May 1, 2008. Stock Units granted pursuant to Section 5(a)(iii) or 5(a)(iv) shall be subject to a restriction period whereby 100% of such units shall vest on the first anniversary of the grant date. Notwithstanding the foregoing, the Board, in its discretion, may specify in the agreement circumstances under which the award shall become immediately transferable and nonforfeitable or under which the award shall be forfeited.

(ii) Rights and Provisions Applicable to Stock Units. The agreement relating to a Stock Unit shall specify whether the holder thereof shall be entitled to receive, on a current or deferred basis, dividend equivalents, or the deemed reinvestment of any deferred dividend equivalents, with respect to the number of shares of Stock subject to such award. Prior to the settlement of a Stock Unit, the holder thereof shall not have any rights as a stockholder of the Company with respect to the shares of Stock subject to such award, except to the extent that the Board, in its sole discretion, may grant dividend equivalents on Stock Units which are settled in shares of Stock. No shares of Stock and no certificates or other indicia of ownership representing shares of Stock that are subject to a Stock Unit shall be issued upon the grant of a Stock Unit. Instead, shares of Stock subject to Stock Units and the certificates or other indicia of ownership representing such shares of Stock shall be distributed only at the time of settlement of such Stock Units in accordance with the terms and conditions of this Plan and the agreements relating to such Stock Units.

(c) Limitation on Transfer. Stock Units may not be sold, transferred, pledged, assigned or otherwise conveyed by an Eligible Director, unless as otherwise provided for by the Board.

(d) Deferral of Awards. Each Eligible Director may elect to defer an award of Stock Units in accordance with Section 6.

Section 6. Deferral Elections

The Board may permit the deferral of any Retainer or award granted under this Plan, subject to the rules and procedures as it may establish, in accordance with the requirements of Section 409A of the Internal Revenue Code of 1986, as amended, (the “**Code**”) or other applicable law, and which may include provisions for the payment or crediting of dividend equivalents, on a current or deferred basis, or the deemed reinvestment of any deferred dividend equivalents, with respect to the number of shares of Stock subject to such award. The Board shall set forth in writing (which may be in electronic form), on or before the date the applicable deferral election is required to be irrevocable in order to meet the requirements of Section 409A, the conditions under which such election may be made.

Section 7. Retainers

Each Eligible Director shall be eligible to receive a cash Retainer, as established by the Board, from time to time.

Section 8. Election to Receive Stock

(a) Election. An Eligible Director may make a Stock Election to receive all or part of any or all of such Eligible Director’s Retainers in shares of Stock by submitting a Stock Election Form to the Secretary indicating the Stock Amount. A Stock Election Form shall be effective only with respect to Retainers payable after the date on which the Secretary receives the Stock Election Form. Each Stock Election, once made, shall be irrevocable. Notwithstanding the foregoing, a Stock Election may be superseded with respect to future payments of an Eligible Director’s Retainers by submitting a new Stock Election Form to the Secretary.

(b) Payment in Stock. As of each Retainer Payment Date, an Eligible Director who has made a Stock Election will receive, in lieu of the Retainer elected to be received in Stock, a whole number of shares of Stock (but not fractional shares) determined by dividing:

- (i) the amount of the Retainer that is payable to the Eligible Director on the applicable Retainer Payment Date and is subject to a Stock Election; by
- (ii) the Fair Market Value of a share of Stock on such Retainer Payment Date.

In no circumstances shall an Eligible Director be entitled to receive, or shall the Company have any obligation to issue to the Eligible Director, any fractional share of Stock. In lieu of any fractional share of Stock, the Eligible Director shall be entitled to receive, and the Company shall be obligated to pay to such Eligible Director, cash equal to the value of any fractional share of Stock (determined by using the Fair Market Value of a share of Stock on such Retainer Payment Date).

Section 9. Fair Market Value

“**Fair Market Value**” shall mean, with respect to each share of Stock for any day:

(a) on the IPO Effective Date, the IPO Price;

(b) if the Stock is listed on any established exchange or a national market system (including without limitation The Nasdaq National Market or The Nasdaq Small Cap Market of The Nasdaq Stock Market) (such exchange or system, a “**Qualified Exchange**”), its Fair Market Value shall be the closing sales price for the Stock (or the closing bid, if no sales were reported) as quoted on such Qualified Exchange for the last market trading day prior to the time of determination, as reported in *The Wall Street Journal* or such other source as the Board deems reliable;

(c) if the Stock is regularly quoted by a recognized securities dealer but selling prices are not reported, its Fair Market Value shall be the mean between the high bid and low asked prices for the Stock on the last market trading day prior to the day of determination; or

(d) in the absence of an established market for the Stock, its Fair Market Value shall be determined in good faith by the Board.

Section 10. Issuance of Stock

(a) Restrictions on Transferability. All shares of Stock delivered under the Plan shall be subject to such stop-transfer orders and other restrictions as the Company may deem advisable or legally necessary under any laws, statutes, rules, regulations and other legal requirements, including, without limitation, those of any stock exchange upon which the Stock is then listed and any applicable federal, state or foreign securities law.

(b) Compliance with Laws. Anything to the contrary herein notwithstanding, the Company shall not be required to issue any shares of Stock under the Plan if, in the opinion of legal counsel to the Company, the issuance and delivery of such shares would constitute a violation by the Eligible Director or the Company of any applicable law or regulation of any governmental authority, including, without limitation, federal and state securities laws, or the regulations of any stock exchanges on which the Company’s securities may then be listed.

Section 11. Plan Amendments and Termination

The Board may suspend or terminate the Plan at any time, in whole or in part. Termination of the Plan shall not adversely affect the rights of Eligible Directors with respect to outstanding awards granted pursuant to the Plan.

The Board may also alter, amend or modify the Plan at any time. These amendments may include (but are not limited to) changes that the Board considers necessary or advisable as a result of changes in, or the adoption or interpretation of, any law, regulation, ruling, judicial decision or accounting standards (collectively, “**Legal Requirements**”). The

Board may not amend or modify the Plan in a manner that would materially impair an Eligible Director's rights in any outstanding award without the Eligible Director's consent; *provided, however*, that the Board may, without an Eligible Director's consent, amend or modify the Plan in any manner that it considers necessary or advisable to comply with any Legal Requirement or to ensure that awards granted pursuant to the Plan are not subject to federal, state or local income tax prior to payment.

Notwithstanding the foregoing, if any provision of this Plan would, in the reasonable, good faith judgment of the Company, result in or likely result in the imposition on any Eligible Director or any other person of any tax, interest or penalty under Section 409A of the Internal Revenue Code of 1986, as amended, the Company may reform this Plan or any provision hereof, without the consent of any Eligible Director, in the manner that the Company reasonably and in good faith determines to be necessary or advisable to avoid the imposition of such tax, interest or penalty; *provided, however*, that any such reformation shall, to the maximum extent the Company reasonably and in good faith determines to be possible, retain the economic and tax benefits to the Eligible Directors hereunder while not materially increasing the cost to the Company of providing such benefits to the Eligible Directors.

Section 12. Listing, Registration and Legal Compliance

If the Plan Administrator or the Board shall at any time determine that any Consent (as hereinafter defined) is necessary or desirable as a condition of, or in connection with, the granting of any award under the Plan, the issuance or purchase of shares or other rights hereunder or the taking of any other action hereunder (each such action being hereinafter referred to as a "**Plan Action**"), then such Plan Action shall not be taken, in whole or in part, unless and until such Consent shall have been effected or obtained. The term "**Consent**" as used herein with respect to any Plan Action means (i) the listing, registrations or qualifications in respect thereof upon any securities exchange or under any foreign, federal, state or local law, rule or regulation, (ii) any and all consents, clearances and approvals in respect of a Plan Action by any governmental or other regulatory bodies, or (iii) any and all written agreements and representations by an Eligible Director with respect to the disposition of Stock or with respect to any other matter, which the Plan Administrator or the Board shall deem necessary or desirable in order to comply with the terms of any such listing, registration or qualification or to obtain an exemption from the requirement that any such listing, qualification or registration be made.

Section 13. Right Reserved

Nothing in the Plan shall confer upon any Eligible Director the right to continue as a director of the Company or affect any right that the Company or any Eligible Director may have to terminate the service of such Eligible Director.

Section 14. Rights as a Stockholder

An Eligible Director shall not, by reason of any Stock Unit or any other award hereunder, have any rights as a stockholder of the Company until Stock has been issued to such Eligible Director.

Section 15. Unfunded Plan

The Plan shall be unfunded and shall not create (or be construed to create) a trust or a separate fund or funds. The Plan shall not establish any fiduciary relationship between the Company and any Eligible Director or other person. To the extent any person holds any rights by virtue of a pending grant or deferral under the Plan, such rights shall be no greater than the rights of an unsecured general creditor of the Company.

Section 16. Governing Law

The Plan is deemed adopted, made and delivered in New York and shall be governed by the laws of the State of New York applicable to agreements made and to be performed entirely within such state.

Section 17. Severability

If any part of the Plan is declared by any court or governmental authority to be unlawful or invalid, such unlawfulness or invalidity shall not invalidate any portion of the Plan not declared to be unlawful or invalid. Any Section or part of a Section so declared to be unlawful or invalid shall, if possible, be construed in a manner that will give effect to the terms of such Section or part of a Section to the fullest extent possible while remaining lawful and valid.

Section 18. Notices

All notices and other communications hereunder shall be given in writing and shall be deemed given when personally delivered against receipt or five days after having been mailed by registered or certified mail, postage prepaid, return receipt requested, addressed as follows: (a) if to the Company: MSCI, Wall Street Plaza, 88 Pine Street, New York, NY 10005, Attention: Global Head of Human Resources; and (b) if to an Eligible Director, at the Eligible Director's principal residential address last furnished to the Company. Either party may, by notice, change the address to which notice to such party is to be given.

Section 19. Section Headings

The Section headings contained herein are for the purposes of convenience only and are not intended to define or limit the contents of said Sections.

Section 20. Definitions

As used in the Plan, the following terms shall have the meanings indicated below:

"Annual Meeting" means an annual meeting of the Company's stockholders.

"Board" means the board of directors of the Company.

"Company" has the meaning set forth in Section 1.

"Consent" has the meaning set forth in Section 12.

"Eligible Directors" has the meaning set forth in Section 2.

“**Fair Market Value**” has the meaning set forth in Section 9.

“**IPO**” means an underwritten initial public offering of Stock pursuant to a Form S-1.

“**IPO Effective Date**” means the date on which the underwriting agreement with respect to an IPO is executed.

“**IPO Price**” means the public offering price on the cover page of the prospectus relating to the IPO.

“**Legal Requirements**” has the meaning set forth in Section 11.

“**Plan**” has the meaning set forth in Section 1.

“**Plan Action**” has the meaning set forth in Section 12.

“**Plan Administrator**” has the meaning set forth in Section 3.

“**Qualified Exchange**” has the meaning set forth in Section 9.

“**Retainer**” means a retainer for services as a member of the Board in any capacity.

“**Retainer Payment Date**” means, with respect to any Retainer, the date as of which an Eligible Director becomes entitled to payment of such Retainer.

“**Stock**” means class A common stock of the Company, par value \$0.01 per share, and any other shares into which such stock shall thereafter be changed by reason of any merger, reorganization, recapitalization, consolidation, split-up, combination of shares or similar event as set forth in and in accordance with Section 4.

“**Stock Amount**” means the percentage of the Retainers that an Eligible Director elects to have paid in Stock, as indicated on the relevant Stock Election Form.

“**Stock Election**” means an election by an Eligible Director to receive all or a portion of the Eligible Director’s Retainers in shares of Stock.

“**Stock Election Form**” means the election form submitted by an Eligible Director to the Secretary as provided in Section 8(a).

“**Stock Units**” means the right to receive one share of Stock for each unit awarded subject to the expiration of a specified restriction period and subject to any additional restrictions that may be contained in the agreement relating thereto.

**FORM OF MSCI
EQUITY INCENTIVE COMPENSATION PLAN
2007 FOUNDERS GRANT AWARD CERTIFICATE
FOR STOCK UNITS**

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FORM OF MSCI 2007 FOUNDERS GRANT AWARD CERTIFICATE

FOR STOCK UNITS

MSCI has awarded you stock units as an incentive for you to continue to remain in Employment and provide services to the Company, from the Date of the Award through the Scheduled Vesting Dates, as provided in this Award Certificate. This Award Certificate sets forth the general terms and conditions of your 2007 Founders Grant stock unit award.

The number of stock units in your award has been communicated to you separately in a term sheet delivered to you. If you are employed outside the United States, you will also receive an "International Supplement" that contains supplemental terms and conditions for your 2007 Founders Grant stock unit award. This Award Certificate should be read in conjunction with the International Supplement, if applicable, in order for you to understand the terms and conditions of your stock unit award.

Your stock unit award is made pursuant to the Plan. References to "stock units" in this Award Certificate mean only those stock units included in your 2007 Founders Grant stock unit award, and the terms and conditions herein apply only to such award. If you receive any other award under the Plan or another equity compensation plan, it will be governed by the terms and conditions of the applicable award documentation, which may be different from those herein.

The purpose of the Founders Grant stock unit award is, among other things, to align your interests with the interests of the Company and to reward you for your continued Employment and service to the Company in the future. In view of these purposes, you will earn each portion of your 2007 Founders Grant stock unit award only if you remain in continuous Employment through the applicable Scheduled Vesting Date.

Section 409A of the Internal Revenue Code imposes rules relating to the taxation of deferred compensation, including your 2007 Founders Grant stock unit award. The Company reserves the right to modify the terms of your 2007 Founders Grant stock unit award, including, without limitation, the payment provisions applicable to your stock units, to the extent necessary or advisable to comply with Section 409A of the Internal Revenue Code.

Capitalized terms used in this Award Certificate that are not defined in the text have the meanings set forth in Section 24 below. Capitalized terms used in this Award Certificate that are not defined in the text or in Section 24 below have the meanings set forth in the MSCI Equity Incentive Compensation Plan (the "**Plan**").

Section 1 Stock Units Generally.

Each of your stock units corresponds to one share of MSCI class A common stock. A stock unit constitutes an unsecured promise by MSCI to pay you one share of MSCI class A common stock on the conversion date for the stock unit. As the holder of stock units, you have only the rights of a general unsecured creditor of MSCI. You will not be a stockholder with respect to the shares of MSCI class A common stock underlying your stock units unless and until your stock units convert to shares.

Section 2 Vesting Schedule; Conversion; Failure to Comply with Restrictive Covenants.

(a) *Vesting Schedule.* Your stock units will vest according to the following schedule: (i) 50% of your stock units will vest on the First Scheduled Vesting Date, (ii) 25% of your stock units will vest on the Second Scheduled Vesting Date and (iii) the remaining 25% of your stock units will vest on the Third Scheduled Vesting Date. Any fractional stock units resulting from the application of the vesting schedule will be aggregated and will vest on the First Scheduled Vesting Date. Except as otherwise provided in this Award Certificate, each portion of your stock units will vest only if you continue to serve the Company by remaining in continuous Employment through the applicable Scheduled Vesting Date. The special vesting terms set forth in Sections 5, 6, 7 and 8 of this Award Certificate apply (i) if your Employment terminates by reason of your death or Disability, (ii) if the Company terminates your Employment in an involuntary termination under the circumstances described in Section 6, (iii) if your Employment terminates in a Governmental Service Termination or (iv) if a Change in Control occurs and your Employment terminates in a Qualifying Termination. Vested stock units are subject to any transfer restrictions and cancellation and tax withholding provisions set forth in this Award Certificate.

(b) *Conversion.*

(i) Except as otherwise provided in this Award Certificate, each of your vested stock units will convert to one share of MSCI class A common stock on the Scheduled Vesting Date.

(ii) Shares to which you are entitled upon conversion of stock units under any provision of this Award certificate shall not be subject to any transfer restrictions, other than those that may arise under the securities laws or the Company's policies.

Section 3 *Six-month Delay for Specified Employees.*

Notwithstanding the other provisions of this Award Certificate, to the extent necessary to comply with Section 409A of the Internal Revenue Code, if MSCI considers you to be one of its "specified employees" as defined in Section 409A of the Internal Revenue Code at the time of your Separation from Service, your vested stock units will convert to MSCI class A common stock on the date that is six months after your Separation from Service; *provided, however*, that to the extent this Section 3 is applicable, in the event that after the date of your termination of Employment, you (i) die or (ii) accept employment at a Governmental Employer and you provide the Company with satisfactory evidence demonstrating that as a result of such new employment, the divestiture of your continued interest in MSCI equity awards or continued ownership in MSCI class A common stock is reasonably necessary to avoid the violation of U.S. federal, state or local or foreign ethics law or conflicts of interest law applicable to you at such Governmental Employer, payment will be made immediately.

Section 4 *Dividend Equivalent Payments.*

Until your stock units convert to shares, if MSCI pays a regular or ordinary cash dividend on its class A common stock, you will be paid a dividend equivalent in the same amount as the dividend you would have received if you held shares for your vested and unvested stock units. No dividend equivalents will be paid to you with respect to any canceled stock units.

MSCI will decide on the form of payment and may pay dividend equivalents in shares of MSCI class A common stock, in cash or in a combination thereof. MSCI will pay the dividend equivalent when it pays the corresponding dividend on its class A common stock.

Because dividend equivalent payments are considered part of your compensation for income tax purposes, they will be subject to applicable tax and other withholding obligations.

Section 5 *Death and Disability.*

The following special vesting and payment terms apply to your stock units:

(a) *Termination of Employment due to Death.* If your Employment terminates due to death, all of your unvested stock units will immediately vest. Your stock units will convert to shares of MSCI class A common stock upon your death; *provided* that MSCI has knowledge of your death within 75 days. Such shares will be delivered to the beneficiary you have designated pursuant to Section 13 or the legal representative of your estate, as applicable.

(b) *Termination of Employment due to Disability.* If your Employment terminates due to Disability, all of your unvested stock units will immediately vest. All of your stock units will convert to shares of MSCI class A common stock on the date your Employment terminates.

Section 6 *Involuntary Termination by the Company.*

If the Company terminates your employment under circumstances not involving Cause, your unvested stock units will vest on the date your employment with the Company terminates; *provided* that you sign an agreement and release satisfactory to the Company. On that date, your stock units will convert to shares of MSCI class A common stock.

Section 7 *Governmental Service Termination.*

If your Employment terminates in a Governmental Service Termination, then all of your unvested stock units will vest on the date of your Governmental Service Termination. Your vested stock units will convert to shares of MSCI class A common stock on the date of your Governmental Service Termination.

Section 8 *Change in Control and Qualifying Termination.*

In the event of a Change in Control and the termination of your employment due to a Qualifying Termination, all stock units shall automatically vest and be converted into shares of MSCI class A common stock on the date of your Qualifying Termination.

Section 9 *Termination of Employment and Cancellation of Awards.*

(a) *Cancellation of Unvested Awards.* Your unvested stock units will be canceled and forfeited in full if your Employment terminates for any reason other than under the circumstances set forth in this Award Certificate for Death, Disability, Governmental Service Termination, an involuntary termination by the Company described in Section 6 or a Qualifying Termination following a Change in Control.

(b) *General Treatment of Vested Awards.* Except as otherwise provided in this Award Certificate, your vested stock units will convert to shares of MSCI class A common stock on the date they vest. The withholding provisions set forth in this Award Certificate will continue to apply until the later of (i) the date your stock units convert to shares of MSCI class A common stock or (ii) the date the shares of MSCI class A common stock are delivered.

Section 10 *Tax and Other Withholding Obligations.*

Pursuant to rules and procedures that MSCI establishes (including those in Section 11), you may elect to satisfy the tax or other withholding obligations arising upon conversion of your stock units by having MSCI withhold shares of MSCI class A common stock or by tendering shares of MSCI class A common stock, in each case in an amount sufficient to satisfy the tax or other withholding obligations. Shares withheld or tendered will be valued using the fair market value of MSCI class A common stock on the later of (i) the date your stock units convert or (ii) the date the shares of MSCI class A common stock are delivered, using a valuation methodology established by MSCI.

In order to comply with applicable accounting standards or the Company's policies in effect from time to time, MSCI may limit the amount of shares that you may have withheld or that you may tender.

Section 11 *Satisfaction of Obligations.*

Notwithstanding any other provision of this Award Certificate, MSCI shall have such rights of offset with respect to your stock units as set forth in Section 16(a) of the Plan.

Section 12 *Nontransferability.*

You may not sell, pledge, hypothecate, assign or otherwise transfer your stock units, other than as provided in Section 13 (which allows you to designate a beneficiary or beneficiaries in the event of your death) or by will or the laws of descent and distribution or otherwise as provided for by the Committee. This prohibition includes any assignment or other transfer that purports to occur by operation of law or otherwise. During your lifetime, payments relating to the stock units will be made only to you.

Your personal representatives, heirs, legatees, beneficiaries, successors and assigns, and those of MSCI, shall all be bound by, and shall benefit from, the terms and conditions of your award.

Section 13 Designation of a Beneficiary.

You may make a written designation of beneficiary or beneficiaries to receive all or part of the shares to be paid under this Award Certificate in the event of your death. To make a beneficiary designation, you must complete and file the form attached hereto as Appendix A with the Company's Human Resources Department.

Any shares that become payable upon your death, and as to which a designation of beneficiary is not in effect, will be distributed to your estate.

You may replace or revoke your beneficiary designation at any time. If there is any question as to the legal right of any beneficiary to receive shares under this award, MSCI may determine in its sole discretion to deliver the shares in question to your estate. MSCI's determination shall be binding and conclusive on all persons and it will have no further liability to anyone with respect to such shares.

Section 14 Ownership and Possession.

(a) *Generally.* Generally, you will not have any rights as a stockholder in the shares of MSCI class A common stock corresponding to your stock units prior to conversion of your stock units.

Prior to conversion of your stock units, however, you will receive dividend equivalent payments, as set forth in Section 4 of this Award Certificate.

(b) *Following Conversion.* Subject to Section 10, following conversion of your stock units you will be the beneficial owner of the net shares issued to you, and you will be entitled to all rights of ownership, including voting rights and the right to receive cash or stock dividends or other distributions paid on the shares.

Section 15 Securities Law Compliance Matters.

The Administrator may, if it determines it is appropriate, affix any legend to the stock certificates representing shares of MSCI class A common stock issued upon conversion of your stock units (and any stock certificates that may subsequently be issued in substitution for the original certificates). MSCI may advise the transfer agent to place a stop order against such shares if it determines that such an order is necessary or advisable.

Section 16 Compliance with Laws and Regulation.

Any sale, assignment, transfer, pledge, mortgage, encumbrance or other disposition of shares issued upon conversion of your stock units (whether directly

or indirectly, whether or not for value, and whether or not voluntary) must be made in compliance with any applicable constitution, rule, regulation, or policy of any of the exchanges or associations or other institutions with which the Company has membership or other privileges, and any applicable law, or applicable rule or regulation of any governmental agency, self-regulatory organization or state or federal regulatory body.

Section 17 No Entitlements.

(a) *No Right to Continued Employment.* This stock unit award is not an employment agreement, and nothing in this Award Certificate, the International Supplement, if applicable, or the Plan shall alter your status as an “at-will” employee of the Company or your employment status with a Related Employer. None of this Award Certificate, the International Supplement, if applicable, or the Plan shall be construed as guaranteeing your Employment or as giving you any right to continue in the employ of the Company or a Related Employer during any period (including without limitation the period between the Date of the Award and any of the First Scheduled Vesting Date, the Second Scheduled Vesting Date or the Third Scheduled Vesting Date, or any portion of any of these periods), nor shall they be construed as giving you any right to be reemployed by the Company following any termination of Employment.

(b) *No Right to Future Awards.* This award, and all other awards of stock units and other equity-based awards, are discretionary. This award does not confer on you any right or entitlement to receive another award of stock units or any other equity-based award at any time in the future or in respect of any future period.

(c) *No Effect on Future Employment Compensation.* MSCI has made this award to you in its sole discretion. This award does not confer on you any right or entitlement to receive compensation in any specific amount for any future fiscal year, and does not diminish in any way the Company’s discretion to determine the amount, if any, of your compensation. In addition, this award is not part of your base salary or wages and will not be taken into account in determining any other employment-related rights you may have, such as rights to pension or severance pay.

Section 18 Consents under Local Law.

Your award is conditioned upon the making of all filings and the receipt of all consents or authorizations required to comply with, or required to be obtained under, applicable local law.

Section 19 Award Modification.

MSCI reserves the right to modify or amend unilaterally the terms and conditions of your stock units, without first asking your consent, or to waive any terms and conditions that operate in favor of MSCI. These amendments may include (but are not limited to) changes that MSCI considers necessary or advisable as a result of changes in any, or the adoption of any new, Legal Requirement. MSCI may not modify your stock units in a manner that would materially impair your rights in your stock units without your consent; provided, however, that MSCI may, without your consent, amend or modify your stock units in any manner that MSCI considers necessary or advisable to comply with any Legal Requirement or to ensure that your stock units are not subject to United States federal, state or local income tax or any equivalent taxes in territories outside the United States prior to payment. MSCI will notify you of any amendment of your stock units that affects your rights. Any amendment or waiver of a provision of this Award Certificate (other than any amendment or waiver applicable to all recipients generally), which amendment or waiver operates in your favor or confers a benefit on you, must be in writing and signed by the Global Head of Human Resources, the Chief Administrative Officer, the Chief Financial Officer or the General Counsel (or if such positions no longer exist, by the holders of equivalent positions) to be effective.

Section 20 Severability.

In the event MSCI determines that any provision of this Award Certificate would cause you to be in constructive receipt for United States federal or state income tax purposes of any portion of your award, then such provision will be considered null and void and this Award Certificate will be construed and enforced as if the provision had not been included in this Award Certificate as of the date such provision was determined to cause you to be in constructive receipt of any portion of your award.

Section 21 Successors.

This Award Certificate shall be binding upon and inure to the benefit of any successor or successors of the Company and any person or persons who shall, upon your death, acquire any rights hereunder in accordance with this Award Certificate or the Plan.

Section 22 Governing Law.

This Award Certificate and the related legal relations between you and MSCI will be governed by and construed in accordance with the laws of the State of New York, without regard to any conflicts or choice of law, rule or principle that might otherwise refer the interpretation of the award to the substantive law of another jurisdiction.

Section 23 *Rule of Construction for Timing of Conversion.*

With respect to each provision of this Award Certificate that provides for your stock units to convert to shares on the Scheduled Vesting Date or upon a different specified event or date, such conversion will be considered to have been timely made, and neither you nor any of your beneficiaries or your estate shall have any claim against the Company for damages based on a delay in payment, and the Company shall have no liability to you (or to any of your beneficiaries or your estate) in respect of any such delay, as long as payment is made by December 31 of the year in which occurs the Scheduled Vesting Date or such other specified event or date or if, later, by the 15th day of the third calendar month following such specified event or date.

Section 24 *Defined Terms.*

For purposes of this Award Certificate, the following terms shall have the meanings set forth below:

“**Board**” means the Board of Directors of MSCI.

“**Cause**” means:

(a) any act or omission which constitutes a breach of your obligations to the Company or your failure or refusal to perform satisfactorily any duties reasonably required of you, which breach, failure or refusal (if susceptible to cure) is not corrected (other than failure to correct by reason of your incapacity due to physical or mental illness) within ten (10) business days after written notification thereof to you by the Company;

(b) your commission of any dishonest or fraudulent act, or any other act or omission, which has caused or may reasonably be expected to cause injury to the interest or business reputation of the Company; or

(c) your violation of any securities, commodities or banking laws, any rules or regulations issued pursuant to such laws, or rules or regulations of any securities or commodities exchange or association of which the Company is a member or of any policy of the Company relating to compliance with any of the foregoing.

A “**Change in Control**” shall be deemed to have occurred if any of the following conditions shall have been satisfied:

(a) any one person or more than one person acting as a group (as determined under Section 409A), other than (A) any employee plan established by the Company or any of its Subsidiaries, (B) the Company or any of its affiliates (as defined in Rule 12b-2 promulgated under the Exchange Act), (C) an underwriter temporarily holding securities pursuant to an offering of such securities, or (D) a corporation owned, directly or indirectly, by stockholders of the Company in substantially the same proportions as their ownership of the Company, is or becomes, during any 12-month period, the beneficial owner, directly or indirectly, of securities of the Company (not including in the securities beneficially owned by such person(s) any securities acquired directly from the Company or its affiliates other than in connection with the acquisition by the Company or its affiliates of a business) representing 50% or more of the total voting power of the stock of the Company; *provided, however*, that the provisions of this subsection (a) are not intended to apply to or include as a Change in Control any transaction that is specifically excepted from the definition of Change in Control under subsection (c) below;

(b) a change in the composition of the Board such that, during any 12-month period, the individuals who, as of the beginning of such period, constitute the Board (the “**Existing Board**”) cease for any reason to constitute at least 50% of the Board; *provided, however*, that any Spin-off of the Company will not trigger a Change in Control pursuant to this subsection (b); *provided, further*, that any individual becoming a member of the Board subsequent to the beginning of such period whose election, or nomination for election by the Company’s stockholders, was approved by a vote of at least a majority of the directors immediately prior to the date of such appointment or election shall be considered as though such individual were a member of the Existing Board; and *provided, further, however*, that, notwithstanding the foregoing, no individual whose initial assumption of office occurs as a result of either an actual or threatened election contest (as such terms are used in Rule 14a-11 or Regulation 14A promulgated under the Exchange Act or successor statutes or rules containing analogous concepts) or other actual or threatened solicitation of proxies or consents by or on behalf of an individual, corporation, partnership, group, associate or other entity or “person” other than the Board, shall in any event be considered to be a member of the Existing Board;

(c) the consummation of a merger or consolidation of the Company with any other corporation or other entity, or the issuance of voting securities in connection with a merger or consolidation of the Company (or any direct or indirect subsidiary of the Company) pursuant to

applicable stock exchange requirements; *provided* that immediately following such merger or consolidation the voting securities of the Company outstanding immediately prior thereto do not continue to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity of such merger or consolidation or parent entity thereof) 50% or more of the total voting power of the Company stock (or if the Company is not the surviving entity of such merger or consolidation, 50% or more of the total voting power of the stock of such surviving entity or parent entity thereof); and *provided, further*, that a merger or consolidation effected to implement a recapitalization of the Company (or similar transaction) in which no person (as determined under Section 409A) is or becomes the beneficial owner, directly or indirectly, of securities of the Company (not including in the securities beneficially owned by such person any securities acquired directly from the Company or its affiliates other than in connection with the acquisition by the Company or its affiliates of a business) representing 50% or more of either the then outstanding shares of the Company common stock or the combined voting power of the Company's then outstanding voting securities shall not be considered a Change in Control; or

(d) the complete liquidation of the Company or the sale or disposition by the Company of all or substantially all of the Company's assets in which any one person or more than one person acting as a group (as determined under Section 409A) acquires (or has acquired during the 12-month period ending on the date of the most recent acquisition by such person or persons) assets from the Company that have a total gross fair market value equal to more than 50% of the total gross fair market value of all of the assets of the Company immediately prior to such acquisition or acquisitions.

Notwithstanding the foregoing, (1) no Change in Control shall be deemed to have occurred if there is consummated any transaction or series of integrated transactions immediately following which the record holders of the Company common stock immediately prior to such transaction or series of transactions continue to have substantially the same proportionate ownership in an entity which owns substantially all of the assets of the Company immediately prior to such transaction or series of transactions and (2) no event or circumstances described in any of clauses (a) through (d) above shall constitute a Change in Control unless such event or circumstances also constitute a change in the ownership or effective control of the Company, or in the ownership of a substantial portion of the Company's assets, as defined in Section 409A and the regulations and guidance thereunder. In addition, no Change in Control shall be

deemed to have occurred upon the acquisition of additional control of the Company by any one person or more than one person acting as a group that is considered to effectively control the Company.

Terms used in the definition of a Change in Control shall be as defined or interpreted pursuant to Section 409A.

“**Committee**” means the Compensation Committee of the Board, any successor committee thereto or any other committee of the Board appointed by the Board with the powers of the Committee under the Plan, or any subcommittee appointed by such Committee.

“**Company**” means MSCI and all of its Subsidiaries.

“**Date of the Award**” means [].

“**Disability**” means any condition that would qualify for a benefit under any group long-term disability plan maintained by the Company and applicable to you.

“**Employed**” and “**Employment**” refer to Employment with the Company and/or Related Employment.

“**First Scheduled Vesting Date**” means [].

“**Good Reason**” means:

(a) As determined by the Compensation Committee or any of its designees, a materially adverse alteration in the employee’s position or in the nature or status of the employee’s responsibilities from those in effect immediately prior to the Change in Control; or

(b) the Company’s requiring the employee’s principal place of employment to be located more than 75 miles from the location where the employee is principally employed at the time of the Change in Control (except for required travel on the Company’s business to an extent substantially consistent with the employee’s business travel obligations in the ordinary course of business prior to the Change in Control).

“**Governmental Employer**” means a governmental department or agency, self-regulatory agency or other public service employer.

“Governmental Service Termination” means the termination of your Employment as a result of accepting employment at a Governmental Employer and you provide the Company with satisfactory evidence demonstrating that as a result of such new employment, the divestiture of your continued interest in MSCI equity awards or continued ownership in MSCI class A common stock is reasonably necessary to avoid the violation of U.S. federal, state or local or foreign ethics law or conflicts of interest law applicable to you at such Governmental Employer.

“Internal Revenue Code” means the United States Internal Revenue Code of 1986, as amended, and the rules, regulations and guidance thereunder.

“Legal Requirement” means any law, regulation, ruling, judicial decision, accounting standard, regulatory guidance or other legal requirement.

“MSCI” means MSCI Inc., a Delaware corporation, which is registered to do business in New York as NY MSCI Inc.

“Plan” means the 2007 MSCI Equity Incentive Compensation Plan.

A **“Qualifying Termination”** means the termination of your Employment within 18 months following a Change in Control (a) if the Company terminates your Employment under circumstances not involving Cause or (b) you resign from Employment for Good Reason.

“Related Employment” means your employment with Morgan Stanley or any other employer other than the Company (such employer, herein referred to as a **“Related Employer”**), *provided* that such employment is recognized by the Company in its discretion as Related Employment; and, *provided further* that the Company may (1) determine at any time in its sole discretion that employment that was recognized by the Company as Related Employment no longer qualifies as Related Employment, and (2) condition the designation and benefits of Related Employment on such terms and conditions as the Company may determine in its sole discretion. The designation of employment as Related Employment does not give rise to an employment relationship between you and the Company, or otherwise modify your and the Company’s respective rights and obligations. Notwithstanding the foregoing, so long as Morgan Stanley has any equity ownership in the Company, any employment with Morgan Stanley shall constitute Related Employment.

“Scheduled Vesting Date” means the First Scheduled Vesting Date, the Second Scheduled Vesting Date and the Third Scheduled Vesting Date as the context requires.

IN WITNESS WHEREOF, MSCI has duly executed and delivered this Award Certificate as of the Date of the Award.

MSCI

[]
[]

**Designation of Beneficiary(ies) Under
MSCI 2007 Equity Incentive Compensation Plan**

This Designation of Beneficiary shall remain in effect with respect to all awards issued to me under any MSCI equity compensation plan, including any awards that may be issued to me after the date hereof, unless and until I modify or revoke it by submitting a later dated beneficiary designation. This Designation of Beneficiary supersedes all my prior beneficiary designations with respect to all my equity awards.

I hereby designate the following beneficiary(ies) to receive any survivor benefits with respect to all my equity awards:

	Beneficiary(ies) Name(s)	Relationship	Percentage
(1)			
(2)			
(3)			
(4)			

Address(es) of Beneficiary(ies):

- (1)
- (2)
- (3)
- (4)

Contingent Beneficiary

Please also indicate any contingent beneficiary and to which beneficiary above such interest relates.

	Beneficiary(ies) Name(s)	Relationship	Nature of Contingency

Address(es) of Contingent Beneficiary(ies):

Name: (please print)

Date:

Signature

Please sign and return this form to MSCI's Human Resources Department.

**FORM OF MSCI
EQUITY INCENTIVE COMPENSATION PLAN
2007 FOUNDERS GRANT AWARD CERTIFICATE
FOR STOCK UNITS
FOR NAMED EXECUTIVE OFFICERS**

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FORM OF MSCI 2007 FOUNDERS GRANT AWARD CERTIFICATE

FOR STOCK UNITS FOR NAMED EXECUTIVE OFFICERS

MSCI has awarded you stock units as an incentive for you to continue to remain in Employment and provide services to the Company, from the Date of the Award through the Scheduled Vesting Dates, as provided in this Award Certificate. This Award Certificate sets forth the general terms and conditions of your 2007 Founders Grant stock unit award.

The number of stock units in your award has been communicated to you separately in a term sheet delivered to you. If you are employed outside the United States, you will also receive an "International Supplement" that contains supplemental terms and conditions for your 2007 Founders Grant stock unit award. This Award Certificate should be read in conjunction with the International Supplement, if applicable, in order for you to understand the terms and conditions of your stock unit award.

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Section 1 Stock Units Generally.

Each of your stock units corresponds to one share of MSCI class A common stock. A stock unit constitutes an unsecured promise by MSCI to pay you one share of MSCI class A common stock on the conversion date for the stock unit. As the holder of stock units, you have only the rights of a general unsecured creditor of MSCI. You will not be a stockholder with respect to the shares of MSCI class A common stock underlying your stock units unless and until your stock units convert to shares.

Section 2 Vesting Schedule; Conversion; Failure to Comply with Restrictive Covenants.

(a) *Vesting Schedule.* Your stock units will vest according to the following schedule, subject to the satisfaction of the Performance Target: (i) 50% of your stock units will vest on the First Scheduled Vesting Date, (ii) 25% of your stock units will vest on the Second Scheduled Vesting Date and (iii) the remaining 25% of your stock units will vest on the Third Scheduled Vesting Date. Any fractional stock units resulting from the application of the vesting schedule will be aggregated and will vest on the First Scheduled Vesting Date. Except as otherwise provided in this Award Certificate, each portion of your stock units will vest only if you continue to serve the Company by remaining in continuous Employment through the applicable Scheduled Vesting Date. The special vesting terms set forth in Sections 5, 6, 7 and 8 of this Award Certificate apply (i) if your Employment terminates by reason of your death or Disability, (ii) if the Company terminates your Employment in an involuntary termination under the circumstances described in Section 6, (iii) if your Employment terminates in a Governmental Service Termination or (iv) if a Change in Control occurs and your Employment terminates in a Qualifying Termination. Vested stock units are subject to any transfer restrictions and cancellation and tax withholding provisions set forth in this Award Certificate.

(b) *Performance Target.* Satisfaction of the Performance Target is a condition precedent to vesting. If the Performance Target has not been satisfied, your stock units will be forfeited and you will have no further rights with respect to the award. If the Performance Target has been satisfied, you will become vested with respect to the percentage of stock units for which you are eligible to vest as set forth in (a).

(c) *Conversion.*

(i) Except as otherwise provided in this Award Certificate, each of your vested stock units will convert to one share of MSCI class A common stock on the Scheduled Vesting Date.

(ii) Shares to which you are entitled upon conversion of stock units under any provision of this Award certificate shall not be subject to any transfer restrictions, other than those that may arise under the securities laws or the Company's policies.

Section 3 *Six-month Delay for Specified Employees.*

Notwithstanding the other provisions of this Award Certificate, to the extent necessary to comply with Section 409A of the Internal Revenue Code, if MSCI considers you to be one of its "specified employees" as defined in Section 409A of the Internal Revenue Code at the time of your Separation from Service, your vested stock units will convert to MSCI class A common stock on the date that is six months after your Separation from Service; *provided, however*, that to the extent this Section 3 is applicable, in the event that after the date of your termination of Employment, you (i) die or (ii) accept employment at a Governmental Employer and you provide the Company with satisfactory evidence demonstrating that as a result of such new employment, the divestiture of your continued interest in MSCI equity awards or continued ownership in MSCI class A common stock is reasonably necessary to avoid the violation of U.S. federal, state or local or foreign ethics law or conflicts of interest law applicable to you at such Governmental Employer, payment will be made immediately.

Section 4 *Dividend Equivalent Payments.*

Until your stock units convert to shares, if MSCI pays a regular or ordinary cash dividend on its class A common stock, you will be paid a dividend equivalent in the same amount as the dividend you would have received if you held shares for your vested and unvested stock units. No dividend equivalents will be paid to you with respect to any canceled stock units.

MSCI will decide on the form of payment and may pay dividend equivalents in shares of MSCI class A common stock, in cash or in a combination thereof. MSCI will pay the dividend equivalent when it pays the corresponding dividend on its class A common stock.

Because dividend equivalent payments are considered part of your compensation for income tax purposes, they will be subject to applicable tax and other withholding obligations.

Section 5 *Death and Disability.*

The following special vesting and payment terms apply to your stock units:

(a) *Termination of Employment due to Death.* If your Employment terminates due to death, all of your unvested stock units will immediately vest, regardless of the satisfaction of the Performance Target. Your stock units will convert to shares of MSCI class A common stock upon your death; *provided* that MSCI has knowledge of your death within 75 days. Such shares will be delivered to the beneficiary you have designated pursuant to Section 13 or the legal representative of your estate, as applicable.

(b) *Termination of Employment due to Disability.* If your Employment terminates due to Disability, all of your unvested stock units will immediately vest, regardless of the satisfaction of the Performance Target. All of your stock units will convert to shares of MSCI class A common stock on the date your Employment terminates.

Section 6 *Involuntary Termination by the Company.*

If the Company terminates your employment under circumstances not involving Cause, your unvested stock units will vest on the date your employment with the Company terminates, regardless of the satisfaction of the Performance Target; *provided* that you sign an agreement and release satisfactory to the Company. On that date, your stock units will convert to shares of MSCI class A common stock.

Section 7 *Governmental Service Termination.*

If your Employment terminates in a Governmental Service Termination, then all of your unvested stock units will vest on the date of your Governmental Service Termination, regardless of the satisfaction of the Performance Target. Your vested stock units will convert to shares of MSCI class A common stock on the date of your Governmental Service Termination.

Section 8 *Change in Control and Qualifying Termination.*

In all cases in the event of a Change in Control and the termination of your employment due to a Qualifying Termination, the Performance Target will be deemed to be satisfied. Additionally, all stock units shall automatically vest and be converted into shares of MSCI class A common stock on the date of your Qualifying Termination.

Section 9 Termination of Employment and Cancellation of Awards.

(a) *Cancellation of Unvested Awards.* Your unvested stock units will be canceled and forfeited in full if your Employment terminates for any reason other than under the circumstances set forth in this Award Certificate for Death, Disability, Governmental Service Termination, an involuntary termination by the Company described in Section 6 or a Qualifying Termination following a Change in Control.

(b) *General Treatment of Vested Awards.* Except as otherwise provided in this Award Certificate, your vested stock units will convert to shares of MSCI class A common stock on the date they vest. The withholding provisions set forth in this Award Certificate will continue to apply until the later of (i) the date your stock units convert to shares of MSCI class A common stock or (ii) the date the shares of MSCI class A common stock are delivered.

Section 10 Tax and Other Withholding Obligations.

Pursuant to rules and procedures that MSCI establishes (including those in Section 11), you may elect to satisfy the tax or other withholding obligations arising upon conversion of your stock units by having MSCI withhold shares of MSCI class A common stock or by tendering shares of MSCI class A common stock, in each case in an amount sufficient to satisfy the tax or other withholding obligations. Shares withheld or tendered will be valued using the fair market value of MSCI class A common stock on the later of (i) the date your stock units convert or (ii) the date the shares of MSCI class A common stock are delivered, using a valuation methodology established by MSCI.

In order to comply with applicable accounting standards or the Company's policies in effect from time to time, MSCI may limit the amount of shares that you may have withheld or that you may tender.

Section 11 Satisfaction of Obligations.

Notwithstanding any other provision of this Award Certificate, MSCI shall have such rights of offset with respect to your stock units as set forth in Section 16(a) of the Plan.

Section 12 Nontransferability.

You may not sell, pledge, hypothecate, assign or otherwise transfer your stock units, other than as provided in Section 13 (which allows you to designate a beneficiary or beneficiaries in the event of your death) or by will or the laws of descent and distribution or otherwise as provided for by the Committee. This

prohibition includes any assignment or other transfer that purports to occur by operation of law or otherwise. During your lifetime, payments relating to the stock units will be made only to you.

Your personal representatives, heirs, legatees, beneficiaries, successors and assigns, and those of MSCI, shall all be bound by, and shall benefit from, the terms and conditions of your award.

Section 13 *Designation of a Beneficiary.*

You may make a written designation of beneficiary or beneficiaries to receive all or part of the shares to be paid under this Award Certificate in the event of your death. To make a beneficiary designation, you must complete and file the form attached hereto as Appendix A with the Company's Human Resources Department.

Any shares that become payable upon your death, and as to which a designation of beneficiary is not in effect, will be distributed to your estate.

You may replace or revoke your beneficiary designation at any time. If there is any question as to the legal right of any beneficiary to receive shares under this award, MSCI may determine in its sole discretion to deliver the shares in question to your estate. MSCI's determination shall be binding and conclusive on all persons and it will have no further liability to anyone with respect to such shares.

Section 14 *Ownership and Possession.*

(a) *Generally.* Generally, you will not have any rights as a stockholder in the shares of MSCI class A common stock corresponding to your stock units prior to conversion of your stock units.

Prior to conversion of your stock units, however, you will receive dividend equivalent payments, as set forth in Section 4 of this Award Certificate.

(b) *Following Conversion.* Subject to Section 10, following conversion of your stock units you will be the beneficial owner of the net shares issued to you, and you will be entitled to all rights of ownership, including voting rights and the right to receive cash or stock dividends or other distributions paid on the shares.

Section 15 *Securities Law Compliance Matters.*

The Administrator may, if it determines it is appropriate, affix any legend to the stock certificates representing shares of MSCI class A common stock issued upon conversion of your stock units (and any stock certificates that may

subsequently be issued in substitution for the original certificates). MSCI may advise the transfer agent to place a stop order against such shares if it determines that such an order is necessary or advisable.

Section 16 Compliance with Laws and Regulation.

Any sale, assignment, transfer, pledge, mortgage, encumbrance or other disposition of shares issued upon conversion of your stock units (whether directly or indirectly, whether or not for value, and whether or not voluntary) must be made in compliance with any applicable constitution, rule, regulation, or policy of any of the exchanges or associations or other institutions with which the Company has membership or other privileges, and any applicable law, or applicable rule or regulation of any governmental agency, self-regulatory organization or state or federal regulatory body.

Section 17 No Entitlements.

(a) *No Right to Continued Employment.* This stock unit award is not an employment agreement, and nothing in this Award Certificate, the International Supplement, if applicable, or the Plan shall alter your status as an “at-will” employee of the Company or your employment status with a Related Employer. None of this Award Certificate, the International Supplement, if applicable, or the Plan shall be construed as guaranteeing your Employment or as giving you any right to continue in the employ of the Company or a Related Employer during any period (including without limitation the period between the Date of the Award and any of the First Scheduled Vesting Date, the Second Scheduled Vesting Date or the Third Scheduled Vesting Date, or any portion of any of these periods), nor shall they be construed as giving you any right to be reemployed by the Company following any termination of Employment.

(b) *No Right to Future Awards.* This award, and all other awards of stock units and other equity-based awards, are discretionary. This award does not confer on you any right or entitlement to receive another award of stock units or any other equity-based award at any time in the future or in respect of any future period.

(c) *No Effect on Future Employment Compensation.* MSCI has made this award to you in its sole discretion. This award does not confer on you any right or entitlement to receive compensation in any specific amount for any future fiscal year, and does not diminish in any way the Company’s discretion to determine the amount, if any, of your compensation. In addition, this award is not part of your base salary or wages and will not be taken into account in determining any other employment-related rights you may have, such as rights to pension or severance pay.

Section 18 *Consents under Local Law.*

Your award is conditioned upon the making of all filings and the receipt of all consents or authorizations required to comply with, or required to be obtained under, applicable local law.

Section 19 *Award Modification.*

MSCI reserves the right to modify or amend unilaterally the terms and conditions of your stock units, without first asking your consent, or to waive any terms and conditions that operate in favor of MSCI. These amendments may include (but are not limited to) changes that MSCI considers necessary or advisable as a result of changes in any, or the adoption of any new, Legal Requirement. MSCI may not modify your stock units in a manner that would materially impair your rights in your stock units without your consent; provided, however, that MSCI may, without your consent, amend or modify your stock units in any manner that MSCI considers necessary or advisable to comply with any Legal Requirement or to ensure that your stock units are not subject to United States federal, state or local income tax or any equivalent taxes in territories outside the United States prior to payment. MSCI will notify you of any amendment of your stock units that affects your rights. Any amendment or waiver of a provision of this Award Certificate (other than any amendment or waiver applicable to all recipients generally), which amendment or waiver operates in your favor or confers a benefit on you, must be in writing and signed by the Global Head of Human Resources, the Chief Administrative Officer, the Chief Financial Officer or the General Counsel (or if such positions no longer exist, by the holders of equivalent positions) to be effective.

Section 20 *Severability.*

In the event MSCI determines that any provision of this Award Certificate would cause you to be in constructive receipt for United States federal or state income tax purposes of any portion of your award, then such provision will be considered null and void and this Award Certificate will be construed and enforced as if the provision had not been included in this Award Certificate as of the date such provision was determined to cause you to be in constructive receipt of any portion of your award.

Section 21 *Successors.*

This Award Certificate shall be binding upon and inure to the benefit of any successor or successors of the Company and any person or persons who shall, upon your death, acquire any rights hereunder in accordance with this Award Certificate or the Plan.

Section 22 *Governing Law.*

This Award Certificate and the related legal relations between you and MSCI will be governed by and construed in accordance with the laws of the State of New York, without regard to any conflicts or choice of law, rule or principle that might otherwise refer the interpretation of the award to the substantive law of another jurisdiction.

Section 23 *Rule of Construction for Timing of Conversion.*

With respect to each provision of this Award Certificate that provides for your stock units to convert to shares on the Scheduled Vesting Date or upon a different specified event or date, such conversion will be considered to have been timely made, and neither you nor any of your beneficiaries or your estate shall have any claim against the Company for damages based on a delay in payment, and the Company shall have no liability to you (or to any of your beneficiaries or your estate) in respect of any such delay, as long as payment is made by December 31 of the year in which occurs the Scheduled Vesting Date or such other specified event or date or if, later, by the 15th day of the third calendar month following such specified event or date.

Section 24 *Defined Terms.*

For purposes of this Award Certificate, the following terms shall have the meanings set forth below:

“**Board**” means the Board of Directors of MSCI.

“**Cause**” means:

(a) any act or omission which constitutes a breach of your obligations to the Company or your failure or refusal to perform satisfactorily any duties reasonably required of you, which breach, failure or refusal (if susceptible to cure) is not corrected (other than failure to correct by reason of your incapacity due to physical or mental illness) within ten (10) business days after written notification thereof to you by the Company;

(b) your commission of any dishonest or fraudulent act, or any other act or omission, which has caused or may reasonably be expected to cause injury to the interest or business reputation of the Company; or

(c) your violation of any securities, commodities or banking laws, any rules or regulations issued pursuant to such laws, or rules or regulations of any securities or commodities exchange or association of which the Company is a member or of any policy of the Company relating to compliance with any of the foregoing.

A “**Change in Control**” shall be deemed to have occurred if any of the following conditions shall have been satisfied:

(a) any one person or more than one person acting as a group (as determined under Section 409A), other than (A) any employee plan established by the Company or any of its Subsidiaries, (B) the Company or any of its affiliates (as defined in Rule 12b-2 promulgated under the Exchange Act), (C) an underwriter temporarily holding securities pursuant to an offering of such securities, or (D) a corporation owned, directly or indirectly, by stockholders of the Company in substantially the same proportions as their ownership of the Company, is or becomes, during any 12-month period, the beneficial owner, directly or indirectly, of securities of the Company (not including in the securities beneficially owned by such person(s) any securities acquired directly from the Company or its affiliates other than in connection with the acquisition by the Company or its affiliates of a business) representing 50% or more of the total voting power of the stock of the Company; *provided*, however, that the provisions of this subsection (a) are not intended to apply to or include as a Change in Control any transaction that is specifically excepted from the definition of Change in Control under subsection (c) below;

(b) a change in the composition of the Board such that, during any 12-month period, the individuals who, as of the beginning of such period, constitute the Board (the “**Existing Board**”) cease for any reason to constitute at least 50% of the Board; *provided, however*, that any Spin-off of the Company will not trigger a Change in Control pursuant to this subsection (b); *provided, further*, that any individual becoming a member of the Board subsequent to the beginning of such period whose election, or nomination for election by the Company’s stockholders, was approved by a vote of at least a majority of the directors immediately prior to the date of such appointment or election shall be considered as though such individual were a member of the Existing Board; and *provided, further, however*, that, notwithstanding the foregoing, no individual whose initial assumption of office occurs as a result of either an actual or threatened election contest (as such terms are used in Rule 14a-11 or Regulation 14A promulgated under the Exchange Act or successor statutes or rules containing analogous concepts) or other actual or threatened solicitation of proxies or consents by or on behalf of an individual, corporation, partnership, group, associate or other entity or “person” other than the Board, shall in any event be considered to be a member of the Existing Board;

(c) the consummation of a merger or consolidation of the Company with any other corporation or other entity, or the issuance of voting securities in connection with a merger or consolidation of the Company (or any direct or indirect subsidiary of the Company) pursuant to applicable stock exchange requirements; *provided* that immediately following such merger or consolidation the voting securities of the Company outstanding immediately prior thereto do not continue to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity of such merger or consolidation or parent entity thereof) 50% or more of the total voting power of the Company stock (or if the Company is not the surviving entity of such merger or consolidation, 50% or more of the total voting power of the stock of such surviving entity or parent entity thereof); and *provided, further*, that a merger or consolidation effected to implement a recapitalization of the Company (or similar transaction) in which no person (as determined under Section 409A) is or becomes the beneficial owner, directly or indirectly, of securities of the Company (not including in the securities beneficially owned by such person any securities acquired directly from the Company or its affiliates other than in connection with the acquisition by the Company or its affiliates of a business) representing 50% or more of either the then outstanding shares of the Company common stock or the combined voting power of the Company's then outstanding voting securities shall not be considered a Change in Control; or

(d) the complete liquidation of the Company or the sale or disposition by the Company of all or substantially all of the Company's assets in which any one person or more than one person acting as a group (as determined under Section 409A) acquires (or has acquired during the 12-month period ending on the date of the most recent acquisition by such person or persons) assets from the Company that have a total gross fair market value equal to more than 50% of the total gross fair market value of all of the assets of the Company immediately prior to such acquisition or acquisitions.

Notwithstanding the foregoing, (1) no Change in Control shall be deemed to have occurred if there is consummated any transaction or series of integrated transactions immediately following which the record holders of the Company common stock immediately prior to such transaction or series of transactions continue to have substantially the same proportionate ownership in an entity which owns substantially all of the assets of the Company immediately prior to such transaction or series of transactions and (2) no event or circumstances described in any of clauses (a) through (d) above shall constitute a

Change in Control unless such event or circumstances also constitute a change in the ownership or effective control of the Company, or in the ownership of a substantial portion of the Company's assets, as defined in Section 409A and the regulations and guidance thereunder. In addition, no Change in Control shall be deemed to have occurred upon the acquisition of additional control of the Company by any one person or more than one person acting as a group that is considered to effectively control the Company.

Terms used in the definition of a Change in Control shall be as defined or interpreted pursuant to Section 409A.

"Committee" means the Compensation Committee of the Board, any successor committee thereto or any other committee of the Board appointed by the Board with the powers of the Committee under the Plan, or any subcommittee appointed by such Committee.

"Company" means MSCI and all of its Subsidiaries.

"Date of the Award" means [].

"Disability" means any condition that would qualify for a benefit under any group long-term disability plan maintained by the Company and applicable to you.

"EBITDA" means earnings before interest, taxes, depreciation and amortization of an entity as determined pursuant to such entity's financial statements and the footnotes thereto for the twelve month period immediately prior to the fiscal quarter ending most recently prior to the date of the Change in Control, calculated on a pro forma basis after giving effect to the Change in Control.

"Employed" and **"Employment"** refer to Employment with the Company and/or Related Employment.

"First Scheduled Vesting Date" means [].

"Good Reason" means:

(a) As determined by the Compensation Committee or any of its designees, a materially adverse alteration in the employee's position or in the nature or status of the employee's responsibilities from those in effect immediately prior to the Change in Control; or

(b) the Company's requiring the employee's principal place of employment to be located more than 75 miles from the location where the employee is principally employed at the time of the Change in Control (except for required travel on the Company's business to an extent substantially consistent with the employee's business travel obligations in the ordinary course of business prior to the Change in Control).

"Governmental Employer" means a governmental department or agency, self-regulatory agency or other public service employer.

"Governmental Service Termination" means the termination of your Employment as a result of accepting employment at a Governmental Employer and you provide the Company with satisfactory evidence demonstrating that as a result of such new employment, the divestiture of your continued interest in MSCI equity awards or continued ownership in MSCI class A common stock is reasonably necessary to avoid the violation of U.S. federal, state or local or foreign ethics law or conflicts of interest law applicable to you at such Governmental Employer.

"Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended, and the rules, regulations and guidance thereunder.

"Legal Requirement" means any law, regulation, ruling, judicial decision, accounting standard, regulatory guidance or other legal requirement.

"MSCI" means MSCI Inc., a Delaware corporation, which is registered to do business in New York as NY MSCI Inc.

"Performance Period" means [].

"Performance Target" means [].

IN WITNESS WHEREOF, MSCI has duly executed and delivered this Award Certificate as of the Date of the Award.

MSCI

[]
[]

**Designation of Beneficiary(ies) Under
MSCI 2007 Equity Incentive Compensation Plan**

This Designation of Beneficiary shall remain in effect with respect to all awards issued to me under any MSCI equity compensation plan, including any awards that may be issued to me after the date hereof, unless and until I modify or revoke it by submitting a later dated beneficiary designation. This Designation of Beneficiary supersedes all my prior beneficiary designations with respect to all my equity awards.

I hereby designate the following beneficiary(ies) to receive any survivor benefits with respect to all my equity awards:

	Beneficiary(ies) Name(s)	Relationship	Percentage
(1)			
(2)			
(3)			
(4)			

Address(es) of Beneficiary(ies):

- (1)
- (2)
- (3)
- (4)

Contingent Beneficiary

Please also indicate any contingent beneficiary and to which beneficiary above such interest relates.

	Beneficiary(ies) Name(s)	Relationship	Nature of Contingency

Address(es) of Contingent Beneficiary(ies):

Name: (please print)

Date:

Signature

Please sign and return this form to MSCI's Human Resources Department.

**FORM OF MSCI
EQUITY INCENTIVE COMPENSATION PLAN
2007 FOUNDERS GRANT AWARD CERTIFICATE
FOR STOCK OPTIONS**

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FORM OF MSCI 2007 FOUNDERS GRANT AWARD CERTIFICATE

FOR STOCK OPTIONS

MSCI has awarded you stock options as an incentive for you to continue to remain in Employment and provide services to the Company, from the Date of the Award through the Scheduled Vesting Dates, as provided in this Award Certificate. This Award Certificate sets forth the general terms and conditions of your 2007 Founders Grant stock option award.

The number of stock options in your award has been communicated to you separately in a term sheet delivered to you. If you are employed outside the United States, you will also receive an "International Supplement" that contains supplemental terms and conditions for your 2007 Founders Grant stock option award. This Award Certificate should be read in conjunction with the International Supplement, if applicable, in order for you to understand the terms and conditions of your stock option award.

Your stock option award is made pursuant to the Plan. References to "stock options" in this Award Certificate mean only those stock options included in your 2007 Founders Grant stock option award, and the terms and conditions herein apply only to such award. If you receive any other award under the Plan or another equity compensation plan, it will be governed by the terms and conditions of the applicable award documentation, which may be different from those herein.

The purpose of the Founders Grant stock option award is, among other things, to align your interests with the interests of the Company and to reward you for your continued Employment and service to the Company in the future. In view of these purposes, you will earn each portion of your 2007 Founders Grant stock option award only if you remain in continuous Employment through the applicable Scheduled Vesting Date.

Section 409A of the Internal Revenue Code imposes rules relating to the taxation of deferred compensation, including your 2007 Founders Grant stock option award. The Company reserves the right to modify the terms of your 2007 Founders Grant stock option award, including, without limitation, the payment provisions applicable to your stock options, to the extent necessary or advisable to comply with Section 409A of the Internal Revenue Code.

Capitalized terms used in this Award Certificate that are not defined in the text have the meanings set forth in Section 23 below. Capitalized terms used in this Award Certificate that are not defined in the text or in Section 23 below have the meanings set forth in the MSCI Equity Incentive Compensation Plan (the "**Plan**").

Section 1. Stock Options Generally.

Each of your stock options gives you the right to purchase one share of MSCI class A common stock at the purchase price set forth in the term sheet.

Section 2. Vesting Schedule; Failure to Comply with Restrictive Covenants.

(a) *Vesting Schedule.* Your stock options will vest according to the following schedule: (i) 50% of your stock options will vest on the First Scheduled Vesting Date, (ii) 25% of your stock options will vest on the Second Scheduled Vesting Date and (iii) the remaining 25% of your stock options will vest on the Third Scheduled Vesting Date. Your stock options will become exercisable upon vesting. Any fractional stock options resulting from the application of the vesting schedule will be aggregated and will vest on the First Scheduled Vesting Date. Except as otherwise provided in this Award Certificate, each portion of your stock options will vest only if you continue to serve the Company by remaining in continuous Employment through the applicable Scheduled Vesting Date. The special vesting terms set forth in Sections 5, 6, 7 and 8 of this Award Certificate apply (i) if your Employment terminates by reason of your death or Disability, (ii) if the Company terminates your Employment in an involuntary termination under the circumstances described in Section 6, (iii) if your Employment terminates in a Governmental Service Termination or (iv) if a Change in Control occurs and your Employment terminates in a Qualifying Termination. Vested stock options are subject to any transfer restrictions and cancellation and tax withholding provisions set forth in this Award Certificate.

Section 3. Expiration Date.

Your stock options will expire on the Expiration Date, assuming your Employment continues until that date. If your Employment terminates before the Expiration Date, any of your stock options that were vested at the time of the termination of your Employment will expire on the earlier of (i) 90 days following your termination and (ii) the Expiration Date. Special exercisability periods and cancellation provisions apply if your Employment terminates under certain circumstances. See Sections 5, 6, 7, 8 and 9 below for details.

Section 4. Exercise.

When you exercise your stock options, you may pay the exercise price in the following ways: (a) in cash; (b) in shares of MSCI class A common stock; or (c) in a combination of cash and shares. Any shares that you tender to pay the exercise price will be valued at their fair market value on the exercise date, using a valuation methodology established by MSCI. MSCI may also allow you to make a “cashless” exercise of stock options (in which the payment of the exercise price is funded by a sale of shares by a broker) or to exercise your stock options through a net-share settlement.

MSCI may implement policies and procedures regarding the availability of any of the foregoing exercise methods or to facilitate cashless exercises. Your exercise and payment must conform to the policies and procedures that MSCI implements from time to time.

Your stock options are considered to be exercised in the order in which they vested.

Section 5. *Death and Disability.*

The following special vesting and exercisability terms apply to your stock options:

(a) *Termination of Employment due to Death.* If your Employment terminates due to your death, all of your unvested stock options will vest on the date your Employment terminates. Your stock options will remain exercisable until the Expiration Date and your beneficiary or the legal representative of your estate, as applicable, may exercise such stock options during this period.

(b) *Death after Termination of Employment.* If you die after the termination of your Employment, the beneficiary you have designated pursuant to Section 13 or the legal representative of your estate, as applicable, may exercise any vested stock options that you held at the time of your death to the extent and for the period that you would have been permitted to exercise your stock options at the time of your death.

(c) *Termination of Employment due to Disability.* If your Employment terminates due to Disability, all of your unvested stock options will vest on the date your Employment terminates and remain exercisable until the Expiration Date.

Section 6. *Involuntary Termination by the Company.*

If the Company terminates your employment under circumstances not involving Cause, your unvested stock options will vest on the date your employment with the Company terminates; provided that you sign an agreement and release satisfactory to the Company. Your stock options will remain exercisable until the later of (i) 90 days after the Third Scheduled Vesting Date and (ii) 90 days after the date your Employment with the Company terminates, but in no event after the Expiration Date.

Section 7. Governmental Service Termination.

If your Employment terminates in a Governmental Service Termination, then all of your unvested stock options will vest on the date of your Governmental Service Termination and will remain exercisable until the earlier of (i) 90 days following your termination and (ii) the Expiration Date.

Section 8. Change in Control and Qualifying Termination.

In the event of a Change in Control and the termination of your employment due to a Qualifying Termination, all stock options shall automatically vest and will remain exercisable until the Expiration Date.

Section 9. Termination of Employment and Cancellation of Awards.

(a) *Cancellation of Unvested Awards.* Your unvested stock options will be canceled and forfeited in full if your Employment terminates for any reason other than under the circumstances set forth in this Award Certificate for death, Disability, Governmental Service Termination, an involuntary termination by the Company described in Section 6 or a Qualifying Termination following a Change in Control.

(b) *General Treatment of Vested Awards.* Except as otherwise provided in this Award Certificate, you may continue to exercise any stock options that were vested at the time of the termination of your Employment for 90 days following the termination of your Employment (but not later than the Expiration Date).

Section 10. Tax and Other Withholding Obligations.

Pursuant to rules and procedures that MSCI establishes (including those in Section 11), you may elect to satisfy the tax or other withholding obligations arising upon exercise of your stock options by having MSCI withhold shares of MSCI class A common stock or by tendering shares of MSCI class A common stock, in each case in an amount sufficient to satisfy the tax or other withholding obligations. Shares withheld or tendered will be valued using the fair market value of MSCI class A common stock on the later of (i) the date your stock options are exercised or (ii) the date the shares of MSCI class A common stock are delivered, using a valuation methodology established by MSCI.

In order to comply with applicable accounting standards or the Company's policies in effect from time to time, MSCI may limit the amount of shares that you may have withheld or that you may tender.

Section 11. Satisfaction of Obligations.

Notwithstanding any other provision of this Award Certificate, MSCI may, in its sole discretion, take various actions affecting your stock options in order to collect amounts sufficient to satisfy any obligation that you owe to the Company and any tax or other withholding obligations. These actions include the following:

(a) In connection with the exercise of your stock options, MSCI may withhold a number of shares sufficient to satisfy any obligation that you owe to the Company and any tax or other withholding obligations. The Company shall determine the number of shares to be withheld by dividing the dollar value of your obligation to the Company and any tax or other withholding obligations by the fair market value of MSCI class A common stock on the date of exercise, or, if later, on the date the shares of MSCI class A common stock are delivered.

(b) MSCI may, at any time, cancel any of your unexercised stock options in a quantity sufficient to satisfy any obligation that you owe to the Company and any tax or other withholding obligations. Any canceled stock options will be considered to have a value equal to the difference between the fair market value of the underlying shares of MSCI class A common stock, determined on the date of cancellation, and the exercise price. Such amount, less any applicable withholding taxes, will be credited against your obligation.

MSCI's determination of the amount that you owe the Company shall be conclusive. The fair market value of MSCI class A common stock for purposes of the foregoing provisions shall be determined using a valuation methodology established by MSCI.

Section 12. Nontransferability.

You may not sell, pledge, hypothecate, assign or otherwise transfer your stock options, other than as provided in Section 13 (which allows you to designate a beneficiary or beneficiaries in the event of your death) or by will or the laws of descent and distribution or as otherwise provided for by the Committee. This prohibition includes any assignment or other transfer that purports to occur by operation of law or otherwise. During your lifetime, stock options may be exercised only by you.

Your personal representatives, heirs, legatees, beneficiaries, successors and assigns, and those of MSCI, shall all be bound by, and shall benefit from, the terms and conditions of your award.

Section 13. Designation of a Beneficiary.

You may make a written designation of beneficiary or beneficiaries to receive all or part of the shares to be paid under this Award Certificate in the event of your death or, following your death, to exercise any stock options that

have become exercisable and have not expired or been canceled. To make a beneficiary designation, you must complete and file the form attached hereto as Appendix A with the Company's Human Resources Department.

Any shares that become payable upon your death, and as to which a designation of beneficiary is not in effect, will be distributed to your estate. Any stock options that remain exercisable following your death, and as to which a designation of a beneficiary is not in effect, will be exercisable by the legal representative of your estate.

You may replace or revoke your beneficiary designation at any time. If there is any question as to the legal right of any beneficiary to receive shares or exercise stock options under this award, MSCI may determine in its sole discretion to deliver the shares in question to your estate or to allow the representative of your estate to exercise the stock options in question. MSCI's determination shall be binding and conclusive on all persons and it will have no further liability to anyone with respect to such stock options.

Section 14. Ownership and Possession.

(a) *Generally.* You will not have any rights as a stockholder in the shares of MSCI class A common stock subject to your stock options until such shares are delivered to you following the exercise of your stock options. Delivery of shares to you will be effected by entry of your name in the share register of MSCI or by such other procedure as may be authorized by MSCI.

(b) *Following Exercise.* Subject to Section 9, following exercise of your stock options you will be the beneficial owner of the Option Shares delivered to you and, upon such delivery, you will be entitled to all rights of ownership, including voting rights and the right to receive cash or stock dividends or other distributions paid on the shares.

Section 15. Securities Law Compliance Matters.

The Administrator may, if it determines it is appropriate, affix any legend to the stock certificates representing shares of MSCI class A common stock issued upon exercise of your stock options (and any stock certificates that may subsequently be issued in substitution for the original certificates). MSCI may advise the transfer agent to place a stop order against such shares if it determines that such an order is necessary or advisable.

Section 16. Compliance with Laws and Regulation.

Any sale, assignment, transfer, pledge, mortgage, encumbrance or other disposition of shares issued upon exercise of your stock options (whether directly

or indirectly, whether or not for value, and whether or not voluntary) must be made in compliance with any applicable constitution, rule, regulation, or policy of any of the exchanges or associations or other institutions with which the Company has membership or other privileges, and any applicable law, or applicable rule or regulation of any governmental agency, self-regulatory organization or state or federal regulatory body.

Section 17. No Entitlements.

(a) *No Right to Continued Employment.* This stock option award is not an Employment agreement, and nothing in this Award Certificate, the International Supplement, if applicable, or the Plan shall alter your status as an “at-will” employee of the Company or your employment status with a Related Employer. None of this Award Certificate, the International Supplement, if applicable, or the Plan shall be construed as guaranteeing your Employment or as giving you any right to continue in the employ of the Company or a Related Employer during any period (including without limitation the period between the Date of the Award and any of the First Scheduled Vesting Date, the Second Scheduled Vesting Date, the Third Scheduled Vesting Date or the Expiration Date or any portion of any of these periods), nor shall they be construed as giving you any right to be reemployed by the Company following any termination of Employment.

(b) *No Right to Future Awards.* This award, and all other awards of stock options and other equity-based awards, are discretionary. This award does not confer on you any right or entitlement to receive another award of stock options or any other equity-based award at any time in the future or in respect of any future period.

(c) *No Effect on Future Employment Compensation.* MSCI has made this award to you in its sole discretion. This award does not confer on you any right or entitlement to receive compensation in any specific amount for any future fiscal year, and does not diminish in any way the Company’s discretion to determine the amount, if any, of your compensation. In addition, this award is not part of your base salary or wages and will not be taken into account in determining any other employment-related rights you may have, such as rights to pension or severance pay.

Section 18. Consents under Local Law.

Your award is conditioned upon the making of all filings and the receipt of all consents or authorizations required to comply with, or required to be obtained under, applicable local law.

Section 19. Award Modification.

MSCI reserves the right to modify or amend unilaterally the terms and conditions of your stock options, without first asking your consent, or to waive any terms and conditions that operate in favor of MSCI. These amendments may include (but are not limited to) changes that MSCI considers necessary or advisable as a result of changes in any, or the adoption of any new, Legal Requirement. MSCI may not modify your stock options in a manner that would materially impair your rights in your stock options without your consent; provided, however, that MSCI may, without your consent, amend or modify your stock options in any manner that MSCI considers necessary or advisable to comply with any Legal Requirement or to ensure that your stock options are not subject to United States federal, state or local income tax or any equivalent taxes in territories outside the United States prior to exercise. MSCI will notify you of any amendment of your stock options that affects your rights. Any amendment or waiver of a provision of this Award Certificate (other than any amendment or waiver applicable to all recipients generally), which amendment or waiver operates in your favor or confers a benefit on you, must be in writing and signed by the Global Head of Human Resources, the Chief Administrative Officer, the Chief Financial Officer or the General Counsel (or if such positions no longer exist, by the holders of equivalent positions) to be effective.

Section 20. Severability.

In the event MSCI determines that any provision of this Award Certificate would cause you to be in constructive receipt for United States federal or state income tax purposes of any portion of your award, then such provision will be considered null and void and this Award Certificate will be construed and enforced as if the provision had not been included in this Award Certificate as of the date such provision was determined to cause you to be in constructive receipt of any portion of your award.

Section 21. Successors.

This Award Certificate shall be binding upon and inure to the benefit of any successor or successors of the Company and any person or persons who shall, upon your death, acquire any rights hereunder in accordance with this Award Certificate or the Plan.

Section 22. Governing Law.

This Award Certificate and the related legal relations between you and MSCI will be governed by and construed in accordance with the laws of the State of New York, without regard to any conflicts or choice of law, rule or principle that might otherwise refer the interpretation of the award to the substantive law of another jurisdiction.

Section 23. Defined Terms.

For purposes of this Award Certificate, the following terms shall have the meanings set forth below:

“**Board**” means the Board of Directors of MSCI.

“**Cause**” means:

(a) any act or omission which constitutes a breach of your obligations to the Company or your failure or refusal to perform satisfactorily any duties reasonably required of you, which breach, failure or refusal (if susceptible to cure) is not corrected (other than failure to correct by reason of your incapacity due to physical or mental illness) within ten (10) business days after written notification thereof to you by the Company;

(b) your commission of any dishonest or fraudulent act, or any other act or omission, which has caused or may reasonably be expected to cause injury to the interest or business reputation of the Company; or

(c) your violation of any securities, commodities or banking laws, any rules or regulations issued pursuant to such laws, or rules or regulations of any securities or commodities exchange or association of which the Company is a member or of any policy of the Company relating to compliance with any of the foregoing.

A “**Change in Control**” shall be deemed to have occurred if any of the following conditions shall have been satisfied:

(a) any one person or more than one person acting as a group (as determined under Section 409A), other than (A) any employee plan established by the Company or any of its Subsidiaries, (B) the Company or any of its affiliates (as defined in Rule 12b-2 promulgated under the Exchange Act), (C) an underwriter temporarily holding securities pursuant to an offering of such securities, or (D) a corporation owned, directly or indirectly, by stockholders of the Company in substantially the same proportions as their ownership of the Company, is or becomes, during any 12-month period, the beneficial owner, directly or indirectly, of securities of the Company (not including in the securities beneficially owned by such person(s) any securities acquired directly from the Company or its affiliates other than in connection with the acquisition by the Company or its affiliates of a business) representing 50% or more

of the total voting power of the stock of the Company; *provided, however*, that the provisions of this subsection (a) are not intended to apply to or include as a Change in Control any transaction that is specifically excepted from the definition of Change in Control under subsection (c) below;

(b) a change in the composition of the Board such that, during any 12-month period, the individuals who, as of the beginning of such period, constitute the Board (the “**Existing Board**”) cease for any reason to constitute at least 50% of the Board; *provided, however*, that any Spin-off of the Company will not trigger a Change in Control pursuant to this subsection (b); *provided, further*, that any individual becoming a member of the Board subsequent to the beginning of such period whose election, or nomination for election by the Company’s stockholders, was approved by a vote of at least a majority of the directors immediately prior to the date of such appointment or election shall be considered as though such individual were a member of the Existing Board; and *provided, further, however*, that, notwithstanding the foregoing, no individual whose initial assumption of office occurs as a result of either an actual or threatened election contest (as such terms are used in Rule 14a-11 or Regulation 14A promulgated under the Exchange Act or successor statutes or rules containing analogous concepts) or other actual or threatened solicitation of proxies or consents by or on behalf of an individual, corporation, partnership, group, associate or other entity or “person” other than the Board, shall in any event be considered to be a member of the Existing Board;

(c) the consummation of a merger or consolidation of the Company with any other corporation or other entity, or the issuance of voting securities in connection with a merger or consolidation of the Company (or any direct or indirect subsidiary of the Company) pursuant to applicable stock exchange requirements; *provided* that immediately following such merger or consolidation the voting securities of the Company outstanding immediately prior thereto do not continue to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity of such merger or consolidation or parent entity thereof) 50% or more of the total voting power of the Company stock (or if the Company is not the surviving entity of such merger or consolidation, 50% or more of the total voting power of the stock of such surviving entity or parent entity thereof); and *provided, further*, that a merger or consolidation effected to implement a recapitalization of the Company (or similar transaction) in which no person (as determined under Section 409A) is or becomes the beneficial owner, directly or indirectly, of securities of the Company (not including in the securities beneficially owned by such person any securities acquired

“Disability” means any condition that would qualify for a benefit under any group long-term disability plan maintained by the Company and applicable to you.

“Employed” and **“Employment”** refer to Employment with the Company and/or Related Employment.

“Exercise Price” means [] per share.

“Expiration Date” means [].

“First Scheduled Vesting Date” means [].

“Good Reason” means:

(a) As determined by the Compensation Committee or any of its designees, a materially adverse alteration in the employee’s position or in the nature or status of the employee’s responsibilities from those in effect immediately prior to the Change in Control; or

(b) the Company’s requiring the employee’s principal place of employment to be located more than 75 miles from the location where the employee is principally employed at the time of the Change in Control (except for required travel on the Company’s business to an extent substantially consistent with the employee’s business travel obligations in the ordinary course of business prior to the Change in Control).

“Governmental Employer” means a governmental department or agency, self-regulatory agency or other public service employer.

“Governmental Service Termination” means the termination of your Employment as a result of accepting employment at a Governmental Employer and you provide the Company with satisfactory evidence demonstrating that as a result of such new employment, the divestiture of your continued interest in MSCI equity awards or continued ownership in MSCI class A common stock is reasonably necessary to avoid the violation of U.S. federal, state or local or foreign ethics law or conflicts of interest law applicable to you at such Governmental Employer.

“**Internal Revenue Code**” means the United States Internal Revenue Code of 1986, as amended, and the rules, regulations and guidance thereunder.

“**Legal Requirement**” means any law, regulation, ruling, judicial decision, accounting standard, regulatory guidance or other legal requirement.

“**MSCI**” means MSCI Inc., a Delaware corporation, which is registered to do business in New York as NY MSCI Inc.

“**Option Shares**” means the number of shares of MSCI class A common stock underlying the portion of your stock options being exercised less the aggregate number of shares of common stock, if any, tendered, withheld or disposed of (including any shares disposed of in a cashless or net-share settlement exercise) to pay the exercise price and tax or other withholding obligation arising upon such exercise.

“**Plan**” means the 2007 MSCI Equity Incentive Compensation Plan.

A “**Qualifying Termination**” means the termination of your Employment within 18 months following a Change in Control (a) if the Company terminates your Employment under circumstances not involving Cause or (b) you resign from Employment for Good Reason.

“**Related Employment**” means your employment with Morgan Stanley or any other employer other than the Company (such employer, herein referred to as a “**Related Employer**”), *provided* that such employment is recognized by the Company in its discretion as Related Employment; and, *provided further* that the Company may (1) determine at any time in its sole discretion that employment that was recognized by the Company as Related Employment no longer qualifies as Related Employment, and (2) condition the designation and benefits of Related Employment on such terms and conditions as the Company may determine in its sole discretion. The designation of employment as Related Employment does not give rise to an employment relationship between you and the Company, or otherwise modify your and the Company’s respective rights and obligations. Notwithstanding the foregoing, so long as Morgan Stanley has any equity ownership in the Company, any employment with Morgan Stanley shall constitute Related Employment.

“**Scheduled Vesting Date**” means the First Scheduled Vesting Date, the Second Scheduled Vesting Date and the Third Scheduled Vesting Date as the context requires.

“**Second Scheduled Vesting Date**” means [].

“**Spin-off**” means a tax-free distribution of the shares of MSCI common stock held by Morgan Stanley to its shareholders (including a distribution in exchange for Morgan Stanley shares or securities) or another similar transaction intended to qualify as a tax-free distribution under Section 355 of the Internal Revenue Code or any corresponding provision of any successor statute.

“**Subsidiary**” means (i) a corporation or other entity with respect to which MSCI, directly or indirectly, has the power, whether through the ownership of voting securities, by contract or otherwise, to elect at least a majority of the members of such corporation’s board of directors or analogous governing body, or (ii) any other corporation or other entity in which MSCI, directly or indirectly, has an equity or similar interest and which the Committee designates as a Subsidiary for purposes of the Plan.

“**Third Scheduled Vesting Date**” means [].

**Designation of Beneficiary(ies) Under
MSCI 2007 Equity Incentive Compensation Plan**

This Designation of Beneficiary shall remain in effect with respect to all awards issued to me under any MSCI equity compensation plan, including any awards that may be issued to me after the date hereof, unless and until I modify or revoke it by submitting a later dated beneficiary designation. This Designation of Beneficiary supersedes all my prior beneficiary designations with respect to all my equity awards.

I hereby designate the following beneficiary(ies) to receive any survivor benefits with respect to all my equity awards:

Beneficiary(ies) Name(s)	Relationship	Percentage
(1)		
(2)		
(3)		
(4)		

Address(es) of Beneficiary(ies):

(1)

(2)

(3)

(4)

Contingent Beneficiary

Please also indicate any contingent beneficiary and to which beneficiary above such interest relates.

Beneficiary(ies) Name(s)	Relationship	Nature of Contingency
Address(es) of Contingent Beneficiary(ies):		

Name: (please print)

Date:

Signature

Please sign and return this form to MSCI's Human Resources Department.

**FORM OF MSCI
INDEPENDENT DIRECTORS'
EQUITY COMPENSATION PLAN
2007 AWARD CERTIFICATE FOR
STOCK UNITS**

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FORM OF MSCI 2007 AWARD CERTIFICATE

FOR STOCK UNITS

MSCI has awarded you stock units as an incentive for you to continue provide services as a Director of the Company from the Date of the Award through the Scheduled Vesting Date, as provided in this Award Certificate. This Award Certificate sets forth the general terms and conditions of your 2007 stock unit award.

The number of stock units in your award has been communicated to you separately in a term sheet or other writing delivered to you.

Your stock unit award is made pursuant to the Plan. References to “stock units” in this Award Certificate mean only those stock units included in your 2007 stock unit award, and the terms and conditions herein apply only to such award. If you receive any other award under the Plan or another equity compensation plan, it will be governed by the terms and conditions of the applicable award documentation, which may be different from those herein.

The purpose of the stock unit award is, among other things, to align your interests with the interests of the Company and to reward you for your continued service as a Director of the Company in the future. In view of these purposes, you will earn your 2007 stock unit award only if you remain in continuous service as a Director of the Company through the Scheduled Vesting Date.

Section 409A of the Internal Revenue Code imposes rules relating to the taxation of deferred compensation, including your 2007 stock unit award. The Company reserves the right to modify the terms of your 2007 stock unit award, including, without limitation, the payment provisions applicable to your stock units, to the extent necessary or advisable to comply with Section 409A of the Internal Revenue Code.

Capitalized terms used in this Award Certificate that are not defined in the text have the meanings set forth in Section 17 below. Capitalized terms used in this Award Certificate that are not defined in the text or in Section 17 below have the meanings set forth in the MSCI Independent Directors’ Equity Compensation Plan (the “**Plan**”).

SECTION 1. *Stock Units Generally.*

Each of your stock units corresponds to one share of MSCI class A common stock. A stock unit constitutes an unsecured promise by MSCI to pay you one share of MSCI class A common stock on the conversion date for the

stock unit. As the holder of stock units, you have only the rights of a general unsecured creditor of MSCI. You will not be a stockholder with respect to the shares of MSCI class A common stock underlying your stock units unless and until your stock units convert to shares.

SECTION 2. Vesting Schedule and Conversion.

(a) *Vesting Schedule.* Your stock units will vest according to the following schedule: 100% of your stock units will vest on the Scheduled Vesting Date. Except as otherwise provided in this Award Certificate, each portion of your stock units will vest only if you continue to provide future services to the Company by remaining in continuous service as a Director of the Company through the Scheduled Vesting Date. The special vesting terms set forth in Sections 4 and 5 of this Award Certificate apply (i) if your service as a Director of the Company terminates by reason of your death or Disability or (ii) upon a Change in Control.

(b) *Conversion.*

(i) Except as otherwise provided in this Award Certificate, each of your vested stock units will convert to one share of MSCI class A common stock on the Scheduled Vesting Date.

(ii) Shares to which you are entitled upon conversion of stock units under any provision of this Award Certificate shall not be subject to any transfer restrictions, other than those that may arise under the securities laws or the Company's policies.

SECTION 3. Dividend Equivalent Payments.

Until your stock units convert to shares, if MSCI pays a regular or ordinary cash dividend on its class A common stock, you will be paid a dividend equivalent in the same amount as the dividend you would have received if you held shares for your stock units. No dividend equivalents will be paid to you with respect to any canceled stock units.

MSCI will decide on the form of payment and may pay dividend equivalents in shares of MSCI class A common stock, in cash or in a combination thereof. MSCI will pay the dividend equivalent when it pays the corresponding dividend on its class A common stock.

SECTION 4. Death and Disability.

The following special vesting and payment terms apply to your stock units:

(a) *Death*. If your service as a Director of the Company terminates due to death, all of your unvested stock units will immediately vest. Your stock units will convert to shares of MSCI class A common stock upon your death; *provided* that MSCI has knowledge of your death within 75 days. Such shares will be delivered to the beneficiary you have designated pursuant to Section 8 or the legal representative of your estate, as applicable.

(b) *Disability*. If your service as a Director of the Company terminates due to Disability, all of your unvested stock units will immediately vest. All of your stock units will convert to shares of MSCI class A common stock on the date your service as a Director of the Company terminates.

SECTION 5. *Change in Control*.

If there is a Change in Control, all of your stock units will immediately vest. Your stock units will convert to shares of MSCI class A common stock on the day they vest.

SECTION 6. *Termination of Service and Cancellation of Awards*.

(a) *Cancellation of Unvested Awards*. Your unvested stock units will be canceled and forfeited in full if your service as a Director of the Company terminates for any reason other than under the circumstances set forth in this Award Certificate for death or Disability.

(b) *General Treatment of Vested Awards*. Except as otherwise provided in this Award Certificate, your vested stock units will convert to shares of MSCI class A common stock on the Scheduled Vesting Date.

SECTION 7. *Nontransferability*.

You may not sell, pledge, hypothecate, assign or otherwise transfer your stock units, other than as provided in Section 9 (which allows you to designate a beneficiary or beneficiaries in the event of your death) or by will or the laws of descent and distribution or otherwise as provided for by the Board. This prohibition includes any assignment or other transfer that purports to occur by operation of law or otherwise. During your lifetime, payments relating to the stock units will be made only to you.

Your personal representatives, heirs, legatees, beneficiaries, successors and assigns, and those of MSCI, shall all be bound by, and shall benefit from, the terms and conditions of your award.

SECTION 8. *Designation of a Beneficiary.*

You may make a written designation of beneficiary or beneficiaries to receive all or part of the shares to be paid under this Award Certificate in the event of your death. To make a beneficiary designation, you must complete and file the form attached hereto as Appendix A with the Company's Human Resources Department. Any shares that become payable upon your death, and as to which a designation of beneficiary is not in effect, will be distributed to your estate.

You may replace or revoke your beneficiary designation at any time. If there is any question as to the legal right of any beneficiary to receive shares under this award, MSCI may determine in its sole discretion to deliver the shares in question to your estate. MSCI's determination shall be binding and conclusive on all persons and it will have no further liability to anyone with respect to such shares.

SECTION 9. *Ownership and Possession.*

(a) *Generally.* Generally, you will not have any rights as a stockholder in the shares of MSCI class A common stock corresponding to your stock units prior to conversion of your stock units.

Prior to conversion of your stock units, however, you will receive dividend equivalent payments, as set forth in Section 3 of this Award Certificate.

(b) *Following Conversion.* Following conversion of your stock units you will be the beneficial owner of the net shares issued to you, and you will be entitled to all rights of ownership, including voting rights and the right to receive cash or stock dividends or other distributions paid on the shares.

SECTION 10. *Securities Law Compliance Matters.*

The Administrator may, if it determines it is appropriate, affix any legend to the stock certificates representing shares of MSCI class A common stock issued upon conversion of your stock units (and any stock certificates that may subsequently be issued in substitution for the original certificates). MSCI may advise the transfer agent to place a stop order against such shares if it determines that such an order is necessary or advisable.

SECTION 11. *Compliance with Laws and Regulation.*

Any sale, assignment, transfer, pledge, mortgage, encumbrance or other disposition of shares issued upon conversion of your stock units (whether directly or indirectly, whether or not for value, and whether or not voluntary) must be made in compliance with any applicable constitution, rule, regulation, or policy of any of the exchanges or associations or other institutions with which the Company

has membership or other privileges, and any applicable law, or applicable rule or regulation of any governmental agency, self-regulatory organization or state or federal regulatory body.

SECTION 12. *Consents under Local Law.*

Your award is conditioned upon the making of all filings and the receipt of all consents or authorizations required to comply with, or required to be obtained under, applicable local law.

SECTION 13. *Award Modification.*

MSCI reserves the right to modify or amend unilaterally the terms and conditions of your stock units, without first asking your consent, or to waive any terms and conditions that operate in favor of MSCI. These amendments may include (but are not limited to) changes that MSCI considers necessary or advisable as a result of changes in any, or the adoption of any new, Legal Requirement. MSCI may not modify your stock units in a manner that would materially impair your rights in your stock units without your consent; provided, however, that MSCI may, without your consent, amend or modify your stock units in any manner that MSCI considers necessary or advisable to comply with any Legal Requirement or to ensure that your stock units are not subject to United States federal, state or local income tax or any equivalent taxes in territories outside the United States prior to payment. MSCI will notify you of any amendment of your stock units that affects your rights. Any amendment or waiver of a provision of this Award Certificate (other than any amendment or waiver applicable to all recipients generally), which amendment or waiver operates in your favor or confers a benefit on you, must be in writing and signed by the Global Head of Human Resources, the Chief Administrative Officer, the Chief Financial Officer or the General Counsel (or if such positions no longer exist, by the holders of equivalent positions) to be effective.

SECTION 14. *Severability.*

In the event MSCI determines that any provision of this Award Certificate would cause you to be in constructive receipt for United States federal or state income tax purposes of any portion of your award, then such provision will be considered null and void and this Award Certificate will be construed and enforced as if the provision had not been included in this Award Certificate as of the date such provision was determined to cause you to be in constructive receipt of any portion of your award.

SECTION 15. *Governing Law.*

This Award Certificate and the related legal relations between you and MSCI will be governed by and construed in accordance with the laws of the State of New York, without regard to any conflicts or choice of law, rule or principle that might otherwise refer the interpretation of the award to the substantive law of another jurisdiction.

SECTION 16. *Rule of Construction for Timing of Conversion.*

With respect to each provision of this Award Certificate that provides for your stock units to convert to shares on the Scheduled Vesting Date or upon a different specified event or date, such conversion will be considered to have been timely made, and neither you nor any of your beneficiaries or your estate shall have any claim against the Company for damages based on a delay in payment, and the Company shall have no liability to you (or to any of your beneficiaries or your estate) in respect of any such delay, as long as payment is made by December 31 of the year in which occurs the Scheduled Vesting Date or such other specified event or date or if, later, by the 15th day of the third calendar month following such specified event or date.

SECTION 17. *Defined Terms.*

For purposes of this Award Certificate, the following terms shall have the meanings set forth below:

(a) “**Board**” means the Board of Directors of MSCI.

(b) A “**Change in Control**” shall be deemed to have occurred if any of the following conditions shall have been satisfied:

(a) any one person or more than one person acting as a group (as determined under Section 409A), other than (A) any employee plan established by the Company or any of its Subsidiaries, (B) the Company or any of its affiliates (as defined in Rule 12b-2 promulgated under the Exchange Act), (C) an underwriter temporarily holding securities pursuant to an offering of such securities, or (D) a corporation owned, directly or indirectly, by stockholders of the Company in substantially the same proportions as their ownership of the Company, is or becomes, during any 12-month period, the beneficial owner, directly or indirectly, of securities of the Company (not including in the securities beneficially owned by such person(s) any securities acquired directly from the Company or its affiliates other than in connection with the acquisition by the Company or its affiliates of a business) representing 50% or more of the total voting power of the stock of the Company; *provided*, however, that the provisions of this subsection (a) are not intended to apply to or include as a Change in Control any transaction that is specifically excepted from the definition of Change in Control under subsection (c) below;

(b) a change in the composition of the Board such that, during any 12-month period, the individuals who, as of the beginning of such period, constitute the Board (the “**Existing Board**”) cease for any reason to constitute at least 50% of the Board; *provided, however*, that any Spin-off of the Company will not trigger a Change in Control pursuant to this subsection (b); *provided, further*, that any individual becoming a member of the Board subsequent to the beginning of such period whose election, or nomination for election by the Company’s stockholders, was approved by a vote of at least a majority of the directors immediately prior to the date of such appointment or election shall be considered as though such individual were a member of the Existing Board; and *provided, further, however*, that, notwithstanding the foregoing, no individual whose initial assumption of office occurs as a result of either an actual or threatened election contest (as such terms are used in Rule 14a-11 or Regulation 14A promulgated under the Exchange Act or successor statutes or rules containing analogous concepts) or other actual or threatened solicitation of proxies or consents by or on behalf of an individual, corporation, partnership, group, associate or other entity or “person” other than the Board, shall in any event be considered to be a member of the Existing Board;

(c) the consummation of a merger or consolidation of the Company with any other corporation or other entity, or the issuance of voting securities in connection with a merger or consolidation of the Company (or any direct or indirect subsidiary of the Company) pursuant to applicable stock exchange requirements; *provided* that immediately following such merger or consolidation the voting securities of the Company outstanding immediately prior thereto do not continue to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity of such merger or consolidation or parent entity thereof) 50% or more of the total voting power of the Company stock (or if the Company is not the surviving entity of such merger or consolidation, 50% or more of the total voting power of the stock of such surviving entity or parent entity thereof); and *provided, further*, that a merger or consolidation effected to implement a recapitalization of the Company (or similar transaction) in which no person (as determined under Section 409A) is or becomes the beneficial owner, directly or indirectly, of securities of the Company (not including in the securities beneficially owned by such person any securities acquired directly from the Company or its affiliates other than in connection with the acquisition by the Company or its affiliates of a business) representing 50% or more of either the then outstanding shares of the Company common stock or the combined voting power of the Company’s then outstanding voting securities shall not be considered a Change in Control; or

(d) the complete liquidation of the Company or the sale or disposition by the Company of all or substantially all of the Company's assets in which any one person or more than one person acting as a group (as determined under Section 409A) acquires (or has acquired during the 12-month period ending on the date of the most recent acquisition by such person or persons) assets from the Company that have a total gross fair market value equal to more than 50% of the total gross fair market value of all of the assets of the Company immediately prior to such acquisition or acquisitions.

Notwithstanding the foregoing, (1) no Change in Control shall be deemed to have occurred if there is consummated any transaction or series of integrated transactions immediately following which the record holders of the Company common stock immediately prior to such transaction or series of transactions continue to have substantially the same proportionate ownership in an entity which owns substantially all of the assets of the Company immediately prior to such transaction or series of transactions and (2) no event or circumstances described in any of clauses (a) through (d) above shall constitute a Change in Control unless such event or circumstances also constitute a change in the ownership or effective control of the Company, or in the ownership of a substantial portion of the Company's assets, as defined in Section 409A and the regulations and guidance thereunder. In addition, no Change in Control shall be deemed to have occurred upon the acquisition of additional control of the Company by any one person or more than one person acting as a group that is considered to effectively control the Company.

Terms used in the definition of a Change in Control shall be as defined or interpreted pursuant to Section 409A.

(c) The "**Company**" means MSCI Inc., a Delaware corporation.

(d) "**Date of the Award**" means [].

(e) "**Disability**" means a "permanent and total disability," as defined in Section 22(e)(3) of the Internal Revenue Code.

(f) "**Internal Revenue Code**" means the United States Internal Revenue Code of 1986, as amended, and the rules, regulations and guidance thereunder.

(g) “**Legal Requirement**” means any law, regulation, ruling, judicial decision, accounting standard, regulatory guidance or other legal requirement.

(h) “**MSCI**” means MSCI Inc., a Delaware corporation, which is registered to do business in New York as NY MSCI Inc.

(i) “**Plan**” means the MSCI Independent Directors’ Equity Compensation Plan.

(j) “**Scheduled Vesting Date**” means [].

(k) “**Spin-off**” means a tax-free distribution of the shares of MSCI common stock held by Morgan Stanley to its shareholders (including a distribution in exchange for Morgan Stanley shares or securities) or another similar transaction intended to qualify as a tax-free distribution under Section 355 of the Internal Revenue Code or any corresponding provision of any successor statute.

IN WITNESS WHEREOF, MSCI has duly executed and delivered this Award Certificate as of the Date of the Award.

MSCI

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**Designation of Beneficiary(ies) Under
MSCI Independent Directors' Equity Compensation Plan**

This Designation of Beneficiary shall remain in effect with respect to all awards issued to me under any MSCI equity compensation plan, including any awards that may be issued to me after the date hereof, unless and until I modify or revoke it by submitting a later dated beneficiary designation. This Designation of Beneficiary supersedes all my prior beneficiary designations with respect to all my equity awards.

I hereby designate the following beneficiary(ies) to receive any survivor benefits with respect to all my equity awards:

Beneficiary(ies) Name(s)	Relationship	Percentage
(1)		
(2)		
(3)		
(4)		

Address(es) of Beneficiary(ies):

(1)
(2)
(3)
(4)

Contingent Beneficiary

Please also indicate any contingent beneficiary and to which beneficiary above such interest relates.

Beneficiary(ies) Name(s)	Relationship	Nature of Contingency
Address(es) of Contingent Beneficiary(ies):		

Name: (please print)

Date:

Signature

Please sign and return this form to MSCI's Human Resources Department.

MSCI Barra

Revised July 20, 2006

Mr. Michael Neborak
16 Greenlawn Road
Katonah, New York 10536

Dear Michael,

I am pleased to extend to you a formal offer of employment at Morgan Stanley Capital International Inc. (MSCI Barra). Those of us who had the opportunity to meet with you look forward to your joining Morgan Stanley (the Firm). Your position will be that of Managing Director and Chief Financial Officer at MSCI Barra in New York.

For fiscal 2006, beginning December 1, 2005, your annualized Total Reward will be \$1,700,000. Your Total Reward will consist of an annual base salary of \$225,000, pro-rated from the date you commence employment, and paid in semi-monthly installments, plus a pro-rated year-end bonus of \$1,475,000 that is payable partially in cash and, at the discretion of a committee of the Board of Directors (the "Committee"), partially in the form of long-term incentive compensation, which may consist of an equity-based award (such as Morgan Stanley restricted stock units and/or other equity-based awards in effect at the time) under one of the Firm's compensation plans. Payment of your Total Reward is contingent upon your execution of the Firm's standard sign-on agreement (the "Sign-On Agreement") which is attached to this letter (see description below). From time to time, we review the form and terms of the long-term incentive compensation and the percentage component that it constitutes of Total Reward with the Committee. Your actual award in any year, if any, will be consistent with the terms and conditions of the relevant long-term incentive compensation program at the time of the award and will be subject to certain restrictions and cancellation provisions (for example, your long-term incentive award, even if vested, is subject to cancellation under specified circumstances). Your year-end bonus will be based on 11 months (January 1, 2006 through November 30, 2006) and payable in January, 2007. All components of your Total Reward are contingent upon satisfactory performance and conduct and that you remain employed through, and not give or receive notice of termination of your employment prior to, November 30, 2006. Any long-term incentive award is further contingent upon your remaining employed through the vesting dates of the award. All payments are subject to applicable withholdings and deductions. In addition, this offer is contingent upon your acceptance and that your employment with MSCI Barra will begin on August 21, 2006.

The Firm will also make you a one-time award of Morgan Stanley Stock Options intended to offset the option award(s) you forfeited at your previous employer. Subject to our receipt of satisfactory supporting documentation as described below, the value of your Morgan Stanley Stock Option award will be determined based on the value of your Citigroup stock options that are actually forfeited. The value of your Citigroup stock options that are actually forfeited will be determined based on a valuation using the closing price of Citigroup common stock as of your employment commencement date. The number of Morgan Stanley Stock Options you will receive corresponding to the value of your Morgan Stanley Stock Option award will be determined on your commencement date based on a valuation using the closing price of Morgan Stanley common stock on that date. Your Stock Options will be granted on the date on which the Committee acts to approve the grant of your award. Your Stock Options will have an exercise price equal to the closing price of Morgan Stanley common stock on the grant date. Subject to satisfactory and continued employment, your Stock Options will vest and become exercisable according to a schedule that is substantially similar to that of your previous employer provided it is no earlier than the grant date and, assuming you remain in continuous employment, all Stock Options will expire on the tenth anniversary of the grant date. Upon termination of your employment, your vested Stock Options will generally expire within 90 days. This award is contingent upon satisfactory confirmation of the terms and forfeiture of the award(s) you forfeited at your previous employer. You agree that, if you have not done so, you will

provide supporting documentation of your forfeited award(s) (in the manner determined by your manager and/or Human Resources), including number of options and applicable vesting schedules, as promptly as possible, but not later than 10 business days after commencing employment, as your award cannot be granted unless we timely receive satisfactory supporting documentation. Following our receipt of such documentation in accordance with the above, your Stock Options will be presented to the Committee for approval. It is expected that the Committee will act to approve grants of stock options within 60 days of your commencement of employment. This offset award will not constitute part of your Total Reward.

The foregoing awards and their terms are subject to approval by the Committee and are subject to the same cancellation provisions, sales restrictions and other terms (except as specifically provided herein) as are in effect at the time for similar equity-based awards (for example, your equity award, even if vested, is subject to cancellation under specified circumstances). The foregoing awards and their terms are also subject to the terms and conditions of the award certificate and the equity compensation plan under which the awards are issued.

The foregoing awards are offered by the Firm and are accepted by you as fully satisfying any loss that you may suffer, including as a result of any former employer forfeiting or otherwise cancelling, as a result of your termination of employment from your former employer, any stock, stock units, stock options (including the loss of any time value in stock options) or other long-term incentive awards or other investment right (contingent or actual) that you may currently enjoy by reason of that employment.

In addition, if any provision of this agreement contravenes Section 409A of the Internal Revenue Code or any regulations or Treasury guidance promulgated thereunder, the Firm shall reform such provision; provided that the Firm shall maintain, to the maximum extent practicable, the original intent of the applicable provision without violating the provisions of Section 409A.

All personal compensation information is strictly confidential and is not to be divulged to any of your colleagues at MSCI, Barra, Morgan Stanley, or The Capital Group. The Firm's Code of Conduct prohibits the disclosure of any confidential information and the strictest measures including disciplinary action may be taken in the event of violation of this Code of Conduct.

Each calendar year you work for Morgan Stanley, you will be eligible for six weeks of vacation, pro-rated from your date of hire. Approximately two to three weeks after your date of hire, you will receive a Benefits Enrollment package from the Benefit Center, your full service resource that provides fast, efficient and easy access to your benefits. The Benefits Enrollment package includes the Benefits Enrollment Guide, which describes the Firm's benefit plans available to you and the steps you need to take to enroll. For detailed plan information, read the Summary Plan Descriptions (SPDs) included in your orientation package.

Health and welfare benefits (medical, dental, vision, life, accident and disability insurance) are generally available retroactive to your date of hire and must be elected within 31 days from the date on your personalized enrollment materials. Pension and savings plans, as described below, are generally available upon hire or after one year of service. 401(k) deductions can be elected at any time.

You can review your options and enroll in coverage on the Benefit Center Web site (<https://www2.benefitsweb.com/morganstanley.html>) approximately three days following your date of hire, by using your Social Security Number and Personal Identification Number (PIN). Your initial PIN is your six-digit month, day and year of birth (mmddyy). If you do not contact the Benefit Center within your 31-day enrollment period, you will receive the health and welfare coverage as indicated in the Enrollment Guide and on your Summary Chart on the Benefit Center Web site.

Upon hire, you will be eligible to participate in the Morgan Stanley 401(k) Plan and Employee Stock Ownership Plan (ESOP), and you will be eligible for the Firm's Match. Generally, you must remain employed through December 31 to receive a Match for that year. With respect to your own contributions to the 401(k) Plan, you may elect to contribute a percentage of each component of your Eligible Pay (including base pay, bonus and commissions), if applicable, at any time. Any elected 401(k) Plan contributions will be effective prospectively, as soon as administratively possible. You will be vested in your 401(k) Match after three years of service.

On the first of the month on or after you complete one year of service (or attain age 21, if later), you will be eligible to participate in the Firm's Pension Plan and after five years of service, you will be vested. Enrollment is automatic.

As a Managing Director with the Firm, you will be uniquely positioned to advance the Firm's business interests. As a result, the Firm requires certain commitments of you in the event your employment with the Firm terminates, so that the Firm can protect those business interests and ensure an orderly transition of business, responsibilities, and business relationships for the benefit of the Firm, our clients and customers and our other employees. In summary, these commitments include that you (i) give the Firm at least 90 days advance written notice of your intention to terminate your employment, (ii) refrain from soliciting or hiring certain Firm employees for 180 days after the termination of your employment and from soliciting certain clients and customers for 90 days after the termination of your employment and (iii) abide by the obligations of confidentiality as set forth in the Firm's Code of Conduct, as amended from time to time (the "Code of Conduct"). These provisions are more fully set forth in the attached Sign-On Agreement and the Code of Conduct, both of which you will be required to acknowledge in connection with commencing employment. The Sign-On Agreement constitutes a material part of the Firm's offer of employment to you, which will not be deemed accepted unless and until you return an executed original of the Sign-On Agreement to us. Therefore, this offer of employment, including payment of your Total Reward and your receipt of any benefits described herein, is contingent upon your execution of the attached Sign-On Agreement.

In addition, we remind you that this offer is contingent upon a number of additional steps in the employment process including, but not limited to, background and reference checking and a drug screening test. The Health Center is open Monday through Friday from 9:00 am until 2:00 pm. Please come in no earlier than 48 hours from your start date for your drug screening. You do not need to make an appointment. Your cost center is C285.

You are also required to show appropriate proof of authorization to commence work in the United States. We ask that you complete Part 1 of the attached Form I-9, on or before your first day of work (see, in the attached packet, a list of the type of documentation we will need.). This is a requirement of the Immigration Reform and Control Act of 1986. If you are not legally able to work for the Firm in the United States in the position offered you, or if any part of the screening process proves unsatisfactory to the Firm or you are unable to complete Part 1 of the Form I-9, the Firm reserves the right to rescind any outstanding offer of employment or terminate your employment without notice or severance benefits and rescind any stock unit or stock option awards described herein. Also in the enclosed packet, please find personnel forms that need to be completed and brought with you on your first day of work.

You acknowledge that in the course of your employment with the Firm, you are not permitted to make any unauthorized use of documents or other information that are the confidential, trade secret or proprietary information of another individual or company ("Confidential Information"). Likewise, you may not bring onto Firm premises any Confidential Information, whether documents or other tangible forms, relating to your prior employers' business.

Nothing in this letter should be construed as a guarantee of any particular level of benefits, of your participation in any benefit plan, or of continued employment for any period of time. You should understand that your employment will be "at will," which means that the Firm may terminate your employment for any reason, with or without cause, and at any time (subject to the Sign-On Agreement). Morgan Stanley reserves the right to amend, modify or terminate, in its sole discretion, all benefit and compensation plans in effect from time to time. This offer letter and the Sign-On Agreement constitute the entire understanding and contain a complete statement of all agreements between you and Morgan Stanley and supersede all prior or contemporaneous verbal or written agreements, understandings or communications (including, without limitation, any term sheet or other summary writing relating to your employment). You acknowledge that you have not relied on any assurance or representation not expressly stated in this offer letter. If there is any conflict with the benefit information included in this letter or any verbal representation and the Plan documents or insurance contracts, the Plan documents or insurance documents control.

With the formalities covered, we are looking forward to your joining MSCI Barra. Please report to New Hire Orientation located at Reuters, 3 Times Square, 30th Floor, at 8:15 am on your start date. At that time you will have your benefits explained in more detail. If you have questions regarding the above, please feel free to call me at (212) 804-2920 or Kevin Byrnes at (212) 804-2915.

We ask that you confirm your acceptance by signing and dating this offer letter in the area designated below and returning this letter to Kate Mannion at 88 Pine Street, 2nd Floor, New York, NY 10005. Your signature below confirms that you are subject to no contractual or other restriction or obligation that is inconsistent with your accepting this offer of employment and performing your duties. Please also sign date and return the attached Sign-On Agreement to Kate in the Human Resources Department. Please retain the additional copy of this offer letter and an additional signed copy of the Sign-On Agreement for your reference.

Very truly yours,

/S/ HENRY A. FERNANDEZ

Henry A. Fernandez
President & Chief Executive Officer
MSCI Barra

Offer Accepted and Agreed To:

Signed: _____
/S/ MICHAEL NEBORAK

Date: _____
7/24/06

This document outlines certain features of certain Plans as currently in effect. Any inconsistency between this document and the Plan documents will be governed by the Plan documents. Although Morgan Stanley expects to continue these Plans indefinitely, it necessarily reserves the right to amend, modify or discontinue the Plans and to implement changes required by federal, state and local legislation. If Morgan Stanley amends a Plan so that there is a material reduction in covered services you will be notified of the reduction within 60 days after the amendment is adopted.

The following is a summary of ongoing obligations by MSCI Inc. (“**MSCI**”) with respect to relocation and expatriate benefits to be provided to C.D. Baer Pettit in connection with his relocation from the United Kingdom to Berkeley, California. This supersedes the letter agreement between Mr. Pettit and Morgan Stanley dated February 6, 2006 and summarizes the continuing obligations of MSCI with respect to Mr. Pettit’s relocation and expatriate benefits.

- **Cost of Living Allowance:** Mr. Pettit’s cost of living allowance will be £6,494 annually. This allowance will be reviewed periodically and adjusted if warranted and will be paid with Mr. Pettit’s regular salary on a monthly basis.
- **Housing/Utility Allowance:** A housing allowance of up to \$11,000 per month will be paid into Mr. Pettit’s US bank account and Mr. Pettit will pay rent directly to his landlord. In addition MSCI will pay a utility allowance of \$700 per month to cover the costs of heating, lighting and personal effects insurance. MSCI will not take responsibility in the US for house maintenance costs (gardening fee, annual painting, etc.). In addition, Mr. Pettit will be entitled to a furniture rental allowance of \$1,300 per month.
- **Assumed UK Housing Deduction:** Mr. Pettit’s annual assumed UK housing deduction, based on Mr. Pettit’s annual base salary and family size of 5 will be £18,442. This amount will be deducted from Mr. Pettit’s salary and is intended to be an offset to the housing allowance (described above) and to ensure that Mr. Pettit is not financially responsible for the differential between housing costs in the United Kingdom and housing costs in Berkeley.
- **Hypothetical Taxes:** MSCI takes responsibility for Mr. Pettit’s actual foreign tax liability and withholds hypothetical UK taxes and National Insurance contributions from the expatriate’s base salary and above base compensation. Outside income such as interest and dividends are also subject to hypothetical tax, although there is no withholding on these amounts. Mr. Pettit’s annual hypothetical tax withholding on his base salary taking into account his current tax free allowance will be £48,607. MSCI will engage an accounting firm to prepare Mr. Pettit’s foreign individual income tax returns and tax equalisation calculation, and reasonable fees associated with these services will be borne by MSCI.
- **Storage of Household Goods:** MSCI will meet the cost of long-term storage of goods left in the UK with the shipping company for the duration of Mr. Pettit’s assignment if he chooses not to ship certain goods to Berkeley.
- **Benefits:** Mr. Pettit will continue to be covered under his UK benefits plan except that his medical insurance coverage will be enhanced to provide international coverage during Mr. Pettit’s assignment.
- **Home Leave:** Mr. Pettit will be entitled to one “Home Leave” trip to the UK for each 12 month period in the assignment location. This includes round-trip airfare in business class from Berkeley to London. Alternatively, Mr. Pettit may elect to travel in economy (coach) in which case he will be entitled to two home leave trips per 12 month period. If Mr. Pettit does not take advantage of the home leave entitlement, he will not be paid in lieu of travel.