

**SECURITIES AND EXCHANGE COMMISSION**  
 Washington, D.C. 20549  
**Amendment No. 2 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) 804-3990

(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	Proposed Maximum Aggregate Offering Price (2)	Amount Of Registration Fee
Class A Common Stock, par value \$0.01 per share	\$ 200,000,000	\$ 6,140(3)

(1) Includes \_\_\_\_\_ 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(o) 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.**

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## EXPLANATORY NOTE

This Amendment No. 2 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. 2.

**PART II**  
**INFORMATION NOT REQUIRED IN PROSPECTUS**

**Item 13. Other Expenses of Issuance and Distribution.**

	<u>Amount To Be Paid</u>
Registration fee	\$ 6,140
NASD filing fee	20,500
Listing fees	*
Transfer agent's fees	*
Printing and engraving expenses	*
Legal fees and expenses	*
Accounting fees and expenses	*
Blue Sky fees and expenses	*
Miscellaneous	*
Total	<u>\$ *</u>

\* To be completed by amendment.

Each of the amounts set forth above, other than the registration fee and the NASD 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 of the Registrant's 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 Services Agreement
10.11	Form of Tax Sharing Agreement
10.12	Form of Shareholder Agreement
10.13	Omnibus Equity Incentive Plan*
10.14	Director Incentive Plan*
10.15	Form of Award Agreement*
10.16	Form of Award Agreement*
10.17	Form of Award Agreement*
10.18	Form of Award Agreement*

<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)*
24.1	Power of Attorney (included on signature page of initial filing)**

\* To be filed by amendment.

\*\* Previously filed.

(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

Exhibit Number	Description
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.
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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)*
24.1	Power of Attorney (included on signature page of the initial filing)**

\* To be filed by amendment.

\*\* Previously filed.

\_\_\_\_\_ Shares

MSCI INC.

**Class A Common Stock (Par Value \$0.01 Per Share)**

**UNDERWRITING AGREEMENT**

\_\_\_\_\_, 2007

Morgan Stanley & Co. Incorporated  
[NAMES OF OTHER CO-MANAGERS]  
c/o Morgan Stanley & Co. Incorporated  
1585 Broadway  
New York, New York 10036

Ladies and Gentlemen:

MSCI Inc., a Delaware corporation (the “**Company**”), and a subsidiary of Morgan Stanley, a Delaware corporation (the “**Parent**”), proposes to issue and sell to the several Underwriters named in Schedule I hereto (the “**Underwriters**”) an aggregate of \_\_\_\_\_ shares (the “**Firm Shares**”) of the Company’s Class A Common Stock, par value \$0.01 per share (the “**Class A Common Stock**”).

The Company also proposes to issue and sell to the several Underwriters not more than an additional \_\_\_\_\_ shares of Class A Common Stock (the “**Additional Shares**”) if and to the extent that you, as managers of the offering, shall have determined to exercise, on behalf of the Underwriters, the right to purchase such shares of Class A Common Stock granted to the Underwriters in Section 3 hereof. The Firm Shares and the Additional Shares are hereinafter collectively referred to as the “**Shares**.” The shares of Class A Common Stock and Class B Common Stock, par value \$0.01 per share, of the Company to be outstanding after giving effect to the sales contemplated hereby are hereinafter referred to collectively as the “**Common Stock**.”

The Company has filed with the Securities and Exchange Commission (the “**Commission**”) a registration statement, including a prospectus, relating to the Shares. The registration statement as amended at the time it becomes effective, including the information (if any) deemed to be part of the registration statement at the time of effectiveness pursuant to Rule 430A under the Securities Act of 1933, as amended (the “**Securities Act**”), is hereinafter referred to as the “**Registration Statement**”; the prospectus in the form first used to confirm sales of Shares (or in the form first made available to the Underwriters by the Company to meet requests of purchasers pursuant to Rule 173 under the Securities Act) is hereinafter referred to as the “**Prospectus**.” If the Company has filed an abbreviated registration statement to register additional shares of Common Stock pursuant to Rule 462(b) under the Securities Act (the “**Rule 462 Registration Statement**”), then any reference herein to the term “**Registration Statement**” shall be deemed to include such Rule 462 Registration Statement.

For purposes of this Agreement, “**free writing prospectus**” has the meaning set forth in Rule 405 under the Securities Act, “**Time of Sale Prospectus**” means the preliminary prospectus together with the free writing prospectuses, if any, each identified in Schedule II hereto, and “**broadly available road show**” means a “bona fide electronic road show” as defined in Rule 433(h)(5) under the Securities Act that has been made available without restriction to any person. As used herein, the terms “**Registration Statement**,” “**preliminary prospectus**,” “**Time of Sale Prospectus**” and “**Prospectus**” shall include the documents, if any, incorporated by reference therein.

Morgan Stanley & Co. Incorporated has agreed to reserve a portion of the Shares to be purchased by it under this Agreement for sale to the Company's directors, officers, employees and business associates and other parties related to the Company (collectively, "**Participants**"), as set forth in the Prospectus under the heading "**Underwriters**" (the "**Directed Share Program**"). The Shares to be sold by Morgan Stanley & Co. Incorporated and its affiliates pursuant to the Directed Share Program are referred to hereinafter as the "**Directed Shares**." Any Directed Shares not orally confirmed for purchase by any Participant by the end of the business day on which this Agreement is executed will be offered to the public by the Underwriters as set forth in the Prospectus.

The Company hereby confirms its engagement of [Name of the QIU], and [Name of the QIU] hereby confirms its agreement with the Company to render services as a "qualified independent underwriter" within the meaning of Rule 2720 of the Conduct Rules of the Financial Industry Regulatory Authority, Inc. (the "**FINRA**") with respect to the offering contemplated hereby. [Name of the QIU], solely in its capacity as qualified independent underwriter and not otherwise, is referred to herein as the "**QIU**."

1. *Representations and Warranties of the Company.* The Company represents and warrants to and agrees with each of the Underwriters that:

(a) The Registration Statement has become effective; no stop order suspending the effectiveness of the Registration Statement is in effect, and no proceedings for such purpose are pending before or threatened by the Commission.

(b)(i) The Registration Statement, when it became effective, did not contain and, as amended or supplemented, if applicable, will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, (ii) the Registration Statement and the Prospectus comply and, as amended or supplemented, if applicable, will comply in all material respects with the Securities Act and the applicable rules and regulations of the Commission thereunder, (iii) the Time of Sale Prospectus does not, and at the time of each sale of the Shares in connection with the offering when the Prospectus is not yet available to prospective purchasers and at the Closing Date (as defined in Section 5), the Time of Sale Prospectus, as then amended or supplemented by the Company, if applicable, will not, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, (iv) each broadly available road show, if any, when considered together with the Time of Sale Prospectus, does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading and (v) the Prospectus does not contain and, as amended or supplemented, if applicable, will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, except that the representations and warranties set forth in this paragraph do not apply to statements or omissions in the Registration Statement, the Time of Sale Prospectus or the Prospectus based upon information relating to any Underwriter furnished to the Company in writing by such Underwriter through you expressly for use therein.

(c) The Company is not an “ineligible issuer” in connection with the offering pursuant to Rules 164, 405 and 433 under the Securities Act. Any free writing prospectus that the Company is required to file pursuant to Rule 433(d) under the Securities Act has been, or will be, filed with the Commission in accordance with the requirements of the Securities Act and the applicable rules and regulations of the Commission thereunder. Each free writing prospectus that the Company has filed, or is required to file, pursuant to Rule 433(d) under the Securities Act or that was prepared by or behalf of or used or referred to by the Company complies or will comply in all material respects with the requirements of the Securities Act and the applicable rules and regulations of the Commission thereunder. Except for the free writing prospectuses, if any, identified in Schedule II hereto, and electronic road shows, if any, each furnished to you before first use, the Company has not prepared, used or referred to, and will not, without your prior consent, prepare, use or refer to, any free writing prospectus.

(d) The Company has been duly incorporated, is validly existing as a corporation in good standing under the laws of the jurisdiction of its incorporation, has the corporate power and authority to own its property and to conduct its business as described in the Time of Sale Prospectus and is duly qualified to transact business and is in good standing in each jurisdiction in which the conduct of its business or its ownership or leasing of property requires such qualification, except to the extent that the failure to be so qualified or be in good standing would not have a material adverse effect on the Company and its subsidiaries, taken as a whole.

(e) Each subsidiary of the Company has been duly incorporated, is validly existing as a corporation in good standing under the laws of the jurisdiction of its incorporation, has the corporate power and authority to own its property and to conduct its business as described in the Time of Sale Prospectus and is duly qualified to transact business and is in good standing in each jurisdiction in which the conduct of its business or its ownership or leasing of property requires such qualification, except to the extent that the failure to be so qualified or be in good standing would not have a material adverse effect on the Company and its subsidiaries, taken as a whole; all of the issued shares of capital stock of each subsidiary of the Company have been duly and validly authorized and issued, are fully paid and non-assessable and are owned directly or indirectly by the Company, free and clear of all liens, encumbrances, equities or claims.

(f) This Agreement has been duly authorized, executed and delivered by the Company.

(g) The authorized capital stock of the Company will, on the Closing Date (as defined in Section 5), conform as to legal matters to the description thereof contained in each of the Time of Sale Prospectus and the Prospectus.

(h) The shares of common stock of the Company outstanding prior to the issuance of the Shares to be sold by the Company have been duly authorized and are validly issued, fully paid and non-assessable.

(i) The Shares have been duly authorized and, when issued and delivered in accordance with the terms of this Agreement, will be validly issued, fully paid and non-assessable, and the issuance of such Shares will not be subject to any preemptive or similar rights.

(j) The execution and delivery by the Company of, and the performance by the Company of its obligations under, this Agreement will not contravene (i) any provision of applicable law, (ii) any provision of the certificate of incorporation or by-laws of the Company, (iii) any agreement or other instrument binding upon the Company or any of its subsidiaries that is material to the Company and its subsidiaries, taken as a whole, or (iv) any judgment, order or decree of any governmental body, agency or court having jurisdiction over the Company or any subsidiary, except, in the case of clauses (i) and (iv) above, where such contravention would not, singly or in the aggregate, have a material adverse effect on the Company or on the power and ability of the Company to perform its obligations under this Agreement or to consummate the transactions contemplated by the Time of Sale Prospectus. No consent, approval, authorization or order of, or qualification with, any governmental body or agency is required for the performance by the Company of its obligations under this Agreement, except such as may be required by the securities or Blue Sky laws of the various states in connection with the offer and sale of the Shares and except for any such consents, approvals, authorizations, orders or qualifications the absence of which would not, singly or in the aggregate, have a material adverse effect on the Company or on the power and ability of the Company to perform its obligations under this Agreement or to consummate the transactions contemplated by the Time of Sale Prospectus.

(k) There has not occurred any material adverse change, or any development involving a prospective material adverse change, in the condition, financial or otherwise, or in the earnings, business or operations of the Company and its subsidiaries, taken as a whole, from that set forth in the Time of Sale Prospectus.

(l) There are no legal or governmental proceedings pending or threatened to which the Company or any of its subsidiaries is a party or to which any of the properties of the Company or any of its subsidiaries is subject (i) other than proceedings accurately described in all material respects in the Time of Sale Prospectus and proceedings that would not have a material adverse effect on the Company and its subsidiaries, taken as a whole, or on the power or ability of the Company to perform its obligations under this Agreement or to consummate the transactions contemplated by the Time of Sale Prospectus or (ii) that are required to be described in the Registration Statement or the Prospectus and are not so described; and there are no statutes, regulations, contracts or other documents that are required to be described in the Registration Statement or the Prospectus or to be filed as exhibits to the Registration Statement that are not described or filed as required.

(m) Each preliminary prospectus filed as part of the registration statement as originally filed or as part of any amendment thereto, or filed pursuant to Rule 424 under the Securities Act, complied when so filed in all material respects with the Securities Act and the applicable rules and regulations of the Commission thereunder.

(n) The Company is not, and after giving effect to the offering and sale of the Shares and the application of the proceeds thereof as described in the Prospectus will not be, required to register as an "investment company" as such term is defined in the Investment Company Act of 1940, as amended.

(o) The Company and its subsidiaries (i) are in compliance with any and all applicable foreign, federal, state and local laws and regulations relating to the protection of human health and safety, the environment or hazardous or toxic substances or wastes, pollutants or contaminants (“**Environmental Laws**”), (ii) have received all permits, licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses and (iii) are in compliance with all terms and conditions of any such permit, license or approval, except where such noncompliance with Environmental Laws, failure to receive required permits, licenses or other approvals or failure to comply with the terms and conditions of such permits, licenses or approvals would not, singly or in the aggregate, have a material adverse effect on the Company and its subsidiaries, taken as a whole.

(p) There are no costs or liabilities associated with Environmental Laws (including, without limitation, any capital or operating expenditures required for clean-up, closure of properties or compliance with Environmental Laws or any permit, license or approval, any related constraints on operating activities and any potential liabilities to third parties) which would, singly or in the aggregate, have a material adverse effect on the Company and its subsidiaries, taken as a whole.

(q) Except as described in the Time of Sale Prospectus, there are no contracts, agreements or understandings between the Company and any person granting such person the right to require the Company to file a registration statement under the Securities Act with respect to any securities of the Company or to require the Company to include such securities with the Shares registered pursuant to the Registration Statement.

(r) Subsequent to the respective dates as of which information is given in the Registration Statement, the Time of Sale Prospectus and the Prospectus, (i) the Company and its subsidiaries have not incurred any material liability or obligation, direct or contingent, nor entered into any material transaction; (ii) the Company has not purchased any of its outstanding capital stock, nor declared, paid or otherwise made any dividend or distribution of any kind on its capital stock other than ordinary and customary dividends; and (iii) there has not been any material change in the capital stock, short term debt or long term debt of the Company and its subsidiaries, except in each case as described in the Registration Statement, the Time of Sale Prospectus and the Prospectus, respectively.

(s) The Company and its subsidiaries have good and marketable title in fee simple to all real property and good and marketable title to all personal property owned by them which is material to the business of the Company and its subsidiaries, in each case free and clear of all liens, encumbrances and defects except such as are described in the Time of Sale Prospectus or such as do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company and its subsidiaries; and any real property and buildings held under lease by the Company and its subsidiaries are held by them under valid, subsisting and enforceable leases with such exceptions as are not material and do not interfere with the use made and proposed to be made of such property and buildings by the Company and its subsidiaries, in each case except as described in the Time of Sale Prospectus.

(t) The Company and its subsidiaries own or possess or, to the knowledge of the Company, it or its subsidiaries can acquire on reasonable terms, all material patents, patent rights, inventions, copyrights, know-how (including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures), trademarks, service marks and trade names currently employed by them in connection with the business now operated by them, and neither the Company nor any of its subsidiaries has received any notice of infringement of or conflict with asserted rights of others with respect to any of the foregoing, except in each case which, singly or in the aggregate, would not have a material adverse effect on the Company and its subsidiaries, taken as a whole.

(u) No material labor dispute with the employees of the Company or any of its subsidiaries exists, except as described in the Time of Sale Prospectus, or, to the knowledge of the Company, is imminent; and the Company is not aware of any existing, threatened or imminent labor disturbance by the employees of any of its principal suppliers, manufacturers or contractors that could have a material adverse effect on the Company and its subsidiaries, taken as a whole.

(v) The Company and each of its subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which they are engaged; neither the Company nor any of its subsidiaries has been refused any insurance coverage sought or applied for; and neither the Company nor any of its subsidiaries has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not have a material adverse effect on the Company and its subsidiaries, taken as a whole, except as described in the Time of Sale Prospectus.

(w) The Company and its subsidiaries possess all certificates, authorizations and permits issued by the appropriate federal, state or foreign regulatory authorities necessary to conduct their respective businesses, except as would not have a material adverse effect on the Company and its subsidiaries, taken as a whole, and neither the Company nor any of its subsidiaries has received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would have a material adverse effect on the Company and its subsidiaries, taken as a whole, except as described in the Time of Sale Prospectus.

(x) The Company and each of its subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Except as described in the Time of Sale Prospectus, since the end of the Company's most recent audited fiscal year, there has been (i) no material weakness in the Company's internal control over financial reporting (whether or not remediated) and (ii) no change in the Company's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

(y) Except as described in the Time of Sale Prospectus, the Company has not sold, issued or distributed any shares of Common Stock during the six-month period preceding the date hereof, including any sales pursuant to Rule 144A under, or Regulation D or S of, the Securities Act, other than shares issued pursuant to employee benefit plans, qualified stock option plans or other employee compensation plans or pursuant to outstanding options, rights or warrants.

(z) Neither the Company nor any of its subsidiaries is required to be registered, licensed or qualified pursuant to the Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder.

(aa) Each employee benefit plan, within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended (“**ERISA**”), that is maintained, administered or contributed to by the Company or any of its affiliates for employees or former employees of the Company has been maintained in all material respects in compliance with its terms and the requirements of any applicable statutes, orders, rules and regulations, including ERISA and the Internal Revenue Code of 1986, as amended (the “**Code**”). No prohibited transaction, within the meaning of Section 406 of ERISA or Section 4975 of the Code, has occurred with respect to any such plan excluding transactions effected pursuant to a statutory or administrative exemption and transactions with respect to which no material liability to the Company has occurred or could reasonably be expected to occur, either individually or in the aggregate; and for each such plan that is subject to the funding rules of Section 412 of the Code or Section 302 of ERISA, no “accumulated funding deficiency” as defined in Section 412 of the Code has been incurred, whether or not waived, and the fair market value of the assets of each such plan (excluding for these purposes accrued but unpaid contributions) exceeds the present value of all benefits accrued under such plan determined using reasonable actuarial assumptions.

(bb) The Company has taken all necessary actions to ensure that, upon the effectiveness of the Registration Statement, it will be in compliance with all applicable provisions of the Sarbanes-Oxley Act of 2002 and all rules and regulations promulgated thereunder that are then in effect and with which the Company is required to comply as of the effectiveness of the Registration Statement.

(cc) The historical consolidated financial statements (including the related notes) set forth in the Registration Statement, the Time of Sale Prospectus and the Prospectus comply in all material respects with the requirements of the Securities Act and present fairly in all material respects the consolidated financial condition, the consolidated results of operations and the consolidated changes in cash flows of the entities purported to be shown thereby in conformity with generally accepted accounting principles; and the summary and selected historical financial data set forth in the Registration Statement, the Time of Sale Prospectus and the Prospectus present fairly in all material respects the information shown therein and have been compiled on a basis consistent in all material respects with that of the audited consolidated financial statements set forth in the Registration Statement, the Time of Sale Prospectus and the Prospectus or the unaudited condensed consolidated financial statements, as the case may be.

(dd) Deloitte & Touche LLP, whose reports are filed with the Commission as a part of the Registration Statement, is and, during the periods covered by their reports, was an independent registered public accounting firm as required by the Securities Act and the published rules and regulations thereunder adopted by the Commission and the Public Company Accounting Oversight Board (United States).

(ee) The statistical and market and industry-related data included in the Registration Statement, the Time of Sale Prospectus and the Prospectus, other than the data furnished to the Company by the Underwriters specifically for use therein, are based on or derived from sources that the Company reasonably believes to be reliable and accurate in all material respects.

(ff) Neither the Company nor any of its subsidiaries is (i) in violation of its certificate of incorporation or by-laws or (ii) in default in any material respect, and no event has occurred which, with notice or lapse of time or both, would constitute such a default, in the due performance or observance of any term, covenant or condition contained in any indenture, mortgage, deed of trust, credit agreement or other agreement or instrument to which it is a party or by which it is bound or to which any of its property or assets is subject, except for any default described in clause (ii) which would not have a material adverse effect on the Company and its subsidiaries, taken as a whole.

(gg) The Company and each of its subsidiaries (to the extent not included in the consolidated tax returns of the Parent in the ordinary course of business) have filed all federal, state, local and foreign tax returns required to be filed through the date of this Agreement or have requested extensions thereof (except for cases in which the failure to file would not have a material adverse effect on the Company and its subsidiaries, taken as a whole) and have paid all taxes required to be paid thereon, and, except as currently being contested in good faith and for which reserves required by generally accepted accounting principles have been created in the financial statements of the Company, no tax deficiency has been determined adversely to the Company or any of its subsidiaries which has had (nor does the Company nor any of its subsidiaries have any notice or knowledge of any tax deficiency which could reasonably be expected to be determined adversely to the Company or its subsidiaries and which could reasonably be expected to have) a material adverse effect on the Company and its subsidiaries, taken as a whole.

(hh) The Company and its subsidiaries have not, nor, to the knowledge of the Company, has any director, officer, agent, employee or other person associated with or acting on behalf of the Company or its subsidiaries, (A) taken any action, directly or indirectly, that would result in a violation by such persons of the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (the “FCPA”) or (B) used any of the funds of the Company or its subsidiaries with an unlawful purpose or in an unlawful manner for any contribution, gift, entertainment or other expense relating to political activity or as a means to permit the operation of the Company or any of its subsidiaries or to obtain any concession in contravention of any applicable law, made any direct or indirect payment to any foreign or domestic government official (or “Foreign Official”, as such term is defined in the FCPA) or employee in contravention of any applicable law from any of the funds of the Company or its subsidiaries, or made any bribe, rebate, payoff, influence payment, kickback or other unlawful payment in contravention of any applicable law and (C) the Company, and to the knowledge of

the Company, its affiliates, have conducted their businesses in compliance with the FCPA and operate under a Morgan Stanley program designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

(ii) Neither the Company, nor any of its subsidiaries, or to the knowledge of the Company, any director, officer, agent, employee or controlled affiliate of the Company or its subsidiaries is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury (“**OFAC**”); and the Company will not directly or indirectly use the proceeds of the offering of the Shares hereunder, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of any person that the Company is aware is currently subject to any U.S. sanctions administered by OFAC.

(jj) The operations of the Company and its subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the money laundering statutes of all jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the “**Money Laundering Laws**”) and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the knowledge of the Company, threatened.

(kk) The Registration Statement, the Prospectus, the Time of Sale Prospectus and any preliminary prospectus comply, and any amendments or supplements thereto will comply, with any applicable laws or regulations of foreign jurisdictions in which the Prospectus, the Time of Sale Prospectus or any preliminary prospectus, as amended or supplemented, if applicable, are distributed in connection with the Directed Share Program.

(ll) No consent, approval, authorization or order of, or qualification with, any governmental body or agency, other than those obtained, is required in connection with the offering of the Directed Shares in any jurisdiction where the Directed Shares are being offered.

(mm) The Company has not offered, or caused Morgan Stanley & Co. Incorporated to offer, Shares to any person pursuant to the Directed Share Program with the specific intent to unlawfully influence (i) a customer or supplier of the Company to alter the customer’s or supplier’s level or type of business with the Company, or (ii) a trade journalist or publication to write or publish favorable information about the Company or its products.

2. *Representations and Warranties of the Parent.* The Parent represents and warrants to and agrees with each of the Underwriters that:

(a) This Agreement has been duly authorized, executed and delivered by or on behalf of the Parent.

(b) The Parent has no reason to believe that the representations and warranties of the Company contained in Section 1(b) of this Agreement are not true and correct.

3. *Agreements to Sell and Purchase.* The Company hereby agrees to sell to the several Underwriters, and each Underwriter, upon the basis of the representations and warranties herein contained, but subject to the conditions hereinafter stated, agrees, severally and not jointly, to purchase from the Company at \$\_\_\_\_\_ a share (the “**Purchase Price**”) the number of Firm Shares set forth in Schedule I hereto opposite the name of such Underwriter.

On the basis of the representations and warranties contained in this Agreement, and subject to its terms and conditions, the Company agrees to sell to the Underwriters the Additional Shares, and the Underwriters shall have the right to purchase, severally and not jointly, up to \_\_\_\_\_ Additional Shares at the Purchase Price. You may exercise this right on behalf of the Underwriters in whole or from time to time in part by giving written notice not later than 30 days after the date of this Agreement. Any exercise notice shall specify the number of Additional Shares to be purchased by the Underwriters and the date on which such shares are to be purchased. Each purchase date must be at least one business day after the written notice is given and may not be earlier than the Closing Date nor later than ten business days after the date of such notice. Additional Shares may be purchased as provided in Section 5 hereof solely for the purpose of covering over-allotments made in connection with the offering of the Firm Shares. On each day, if any, that Additional Shares are to be purchased (an “**Option Closing Date**”), each Underwriter agrees, severally and not jointly, to purchase the number of Additional Shares (subject to such adjustments to eliminate fractional shares as you may determine) that bears the same proportion to the total number of Additional Shares to be purchased on such Option Closing Date as the number of Firm Shares set forth in Schedule I hereto opposite the name of such Underwriter bears to the total number of Firm Shares.

Each of the Company and the Parent hereby agrees that, without the prior written consent of Morgan Stanley & Co. Incorporated on behalf of the Underwriters, it will not, during the period ending 180 days after the date of the Prospectus, (1) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise transfer or dispose of, directly or indirectly, any shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock or (2) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of the Common Stock, whether any such transaction described in clause (1) or (2) above is to be settled by delivery of Common Stock or such other securities, in cash or otherwise or (3) file any registration statement with the Commission relating to the offering of any shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock.

The restrictions contained in the preceding paragraph shall not apply to (a) the Shares to be sold hereunder, (b) the issuance of shares of Common Stock upon the exercise of options granted under employee stock option plans existing as of the date hereof, (c) grants of employee stock options or restricted stock in accordance with the terms of a plan in effect on the date hereof, (d) the filing of a registration statement with the Commission on Form S-8 relating to the offering of securities in accordance with the terms of a plan in effect on the date hereof and (e) the issuance by the Company of up to [number of shares representing 10% of the total number of outstanding shares] shares of Common Stock (or options, warrants or convertible securities relating to shares of Common Stock) in connection with bona fide mergers or acquisitions, joint ventures, commercial relationships or other strategic transactions, *provided* that the acquiree of

any such shares of Common Stock (or options, warrants or convertible securities relating to shares of Common Stock) so issued enters into an agreement in the form of Exhibit A hereto with respect to such shares of Common Stock (or options, warrants or convertible securities relating to shares of Common Stock) for the remainder of the 180-day restricted period and possible extension of such period described below in this paragraph. In addition, the Parent agrees that, without the prior written consent of Morgan Stanley & Co. Incorporated on behalf of the Underwriters, it will not, during the period ending 180 days after the date of the Prospectus, make any demand for, or exercise any right with respect to, the registration of any shares of Common Stock or any security convertible into or exercisable or exchangeable for Common Stock. The Parent consents to the entry of stop transfer instructions with the Company's transfer agent and registrar against the transfer of any Shares held by the Parent except in compliance with the foregoing restrictions. Notwithstanding the foregoing, if (1) during the last 17 days of the 180-day restricted period the Company issues an earnings release or material news or a material event relating to the Company occurs; or (2) prior to the expiration of the 180-day restricted period, the Company announces that it will release earnings results during the 16-day period beginning on the last day of the 180-day restricted period, the restrictions imposed by this Agreement shall continue to apply until the expiration of the 18-day period beginning on the issuance of the earnings release or the occurrence of the material news or material event. The Company shall promptly notify Morgan Stanley & Co. Incorporated of any earnings release, news or event that may give rise to an extension of the initial 180-day restricted period.

4. *Terms of Public Offering.* The Company is advised by you that the Underwriters propose to make a public offering of their respective portions of the Shares as soon after the Registration Statement and this Agreement have become effective as in your judgment is advisable. The Company is further advised by you that the Shares are to be offered to the public initially at \$\_\_\_\_\_ a share (the "**Public Offering Price**") and to certain dealers selected by you at a price that represents a concession not in excess of \$\_\_\_\_\_ a share under the Public Offering Price, and that any Underwriter may allow, and such dealers may reallow, a concession, not in excess of \$\_\_\_\_\_ a share, to any Underwriter or to certain other dealers. The Public Offering Price is not higher than the price recommended by the QIU.

5. *Payment and Delivery.* Payment for the Firm Shares shall be made to the Company in Federal or other funds immediately available in New York City against delivery of such Firm Shares for the respective accounts of the several Underwriters at 10:00 a.m., New York City time, on \_\_\_\_\_, 2007, or at such other time on the same or such other date, not later than \_\_\_\_\_, 2007, as shall be designated in writing by you. The time and date of such payment are hereinafter referred to as the "**Closing Date**."

Payment for any Additional Shares shall be made to the Company in Federal or other funds immediately available in New York City against delivery of such Additional Shares for the respective accounts of the several Underwriters at 10:00 a.m., New York City time, on the date specified in the corresponding notice described in Section 3 or at such other time on the same or on such other date, in any event not later than \_\_\_\_\_, 2007, as shall be designated in writing by you.

The Firm Shares and Additional Shares shall be registered in such names and in such denominations as you shall request in writing not later than one full business day prior to the

Closing Date or the applicable Option Closing Date, as the case may be. The Firm Shares and Additional Shares shall be delivered to you on the Closing Date or an Option Closing Date, as the case may be, for the respective accounts of the several Underwriters, with any transfer taxes payable in connection with the transfer of the Shares to the Underwriters duly paid, against payment of the Purchase Price therefor.

6. *Conditions to the Underwriters' Obligations.* The obligations of the Company to sell the Shares to the Underwriters and the several obligations of the Underwriters to purchase and pay for the Firm Shares on the Closing Date are subject to the condition that the Registration Statement shall have become effective not later than \_\_\_\_\_ (New York City time) on the date hereof.

The several obligations of the Underwriters are subject to the following further conditions:

(a) Subsequent to the execution and delivery of this Agreement and prior to the Closing Date:

(i) there shall not have occurred any downgrading, nor shall any notice have been given of any intended or potential downgrading or of any review for a possible change that does not indicate the direction of the possible change, in the rating accorded any of the securities of the Company, the Parent or any of their respective subsidiaries by any "nationally recognized statistical rating organization," as such term is defined for purposes of Rule 436(g)(2) under the Securities Act; and

(ii) there shall not have occurred any change, or any development involving a prospective change, in the condition, financial or otherwise, or in the earnings, business or operations of the Company and its subsidiaries, taken as a whole, from that set forth in the Time of Sale Prospectus as of the date of this Agreement that, in your judgment, is material and adverse and that makes it, in your judgment, impracticable to market the Shares on the terms and in the manner contemplated in the Time of Sale Prospectus.

(b) The Underwriters shall have received on the Closing Date:

(i) a certificate, dated the Closing Date and signed by an executive officer of the Company, to the effect set forth in Section 6(a)(i) above and to the effect that the representations and warranties of the Company contained in this Agreement are true and correct as of the Closing Date and that the Company has complied with all of the agreements and satisfied all of the conditions on its part to be performed or satisfied hereunder on or before the Closing Date. The executive officer signing and delivering such certificate may rely upon the best of his or her knowledge as to proceedings threatened;

(ii) a certificate, dated the Closing Date and signed by an executive officer of the Parent, to the effect that the representations and warranties of the Parent contained in this Agreement are true and correct as of the Closing Date.

(c) The Underwriters shall have received on the Closing Date an opinion, dated the Closing Date, of Davis Polk & Wardwell, outside counsel for the Company, substantially in the form attached as Exhibit B hereto.

(d) The Underwriters shall have received on the Closing Date an opinion, dated the Closing Date, of Frederick W. Bogdan, General Counsel of the Company, substantially in the form attached as Exhibit C hereto.

(e) The Underwriters shall have received on the Closing Date an opinion of Davis Polk & Wardwell, counsel for the Parent, dated the Closing Date, substantially in the form of Exhibit D hereto.

(f) The Underwriters shall have received on the Closing Date an opinion of Cleary Gottlieb Steen & Hamilton LLP, counsel for the Underwriters, dated the Closing Date, covering such matters as the Underwriters may reasonably request.

The opinions described in Sections 6(c), 6(d) and 6(e) above shall be rendered to the Underwriters at the request of the Company or the Parent, as the case may be, and shall so state therein.

(g) The Underwriters shall have received, on each of the date hereof and the Closing Date, a letter dated the date hereof or the Closing Date, as the case may be, in form and substance satisfactory to the Underwriters, from Deloitte & Touche LLP, independent public accountants, containing statements and information of the type ordinarily included in accountants' "comfort letters" to underwriters with respect to the financial statements and certain financial information contained in the Registration Statement, the Time of Sale Prospectus and the Prospectus; *provided* that the letter delivered on the Closing Date shall use a "cut-off date" not earlier than the date hereof.

(h) The "lock-up" agreements, each substantially in the form of Exhibit A hereto, between you and each shareholder, officer and director of the Company set forth on Schedule III hereto, relating to sales and certain other dispositions of shares of Common Stock or certain other securities, delivered to you on or before the date hereof, shall be in full force and effect on the Closing Date.

The several obligations of the Underwriters to purchase Additional Shares hereunder are subject to the delivery to you on the applicable Option Closing Date of such documents as you may reasonably request with respect to the good standing of the Company, the due authorization and issuance of the Additional Shares to be sold on such Option Closing Date and other matters related to the issuance of such Additional Shares.

7. *Covenants of the Company.* The Company covenants with each Underwriter as follows:

(a) To furnish to you, without charge, \_\_\_\_\_ signed copies of the Registration Statement (including exhibits thereto) and for delivery to each other Underwriter a conformed copy of the Registration Statement (without exhibits thereto) and to furnish to you in New York City, without charge, prior to 10:00 a.m. New York City time on the business day next

succeeding the date of this Agreement and during the period mentioned in Section 7(e) or 7(f) below, as many copies of the Time of Sale Prospectus, the Prospectus and any supplements and amendments thereto or to the Registration Statement as you may reasonably request.

(b) Before amending or supplementing the Registration Statement, the Time of Sale Prospectus or the Prospectus, to furnish to you a copy of each such proposed amendment or supplement and not to file any such proposed amendment or supplement to which you reasonably object, and to file with the Commission within the applicable period specified in Rule 424(b) under the Securities Act any prospectus required to be filed pursuant to such Rule.

(c) To furnish to you a copy of each proposed free writing prospectus to be prepared by or on behalf of, used by, or referred to by the Company and not to use or refer to any proposed free writing prospectus to which you reasonably object.

(d) Not to take any action that would result in an Underwriter or the Company being required to file with the Commission pursuant to Rule 433(d) under the Securities Act a free writing prospectus prepared by or on behalf of the Underwriter that the Underwriter otherwise would not have been required to file thereunder.

(e) If the Time of Sale Prospectus is being used to solicit offers to buy the Shares at a time when the Prospectus is not yet available to prospective purchasers and any event shall occur or condition exist as a result of which it is necessary to amend or supplement the Time of Sale Prospectus in order to make the statements therein, in the light of the circumstances, not misleading, or if any event shall occur or condition exist as a result of which the Time of Sale Prospectus conflicts with the information contained in the Registration Statement then on file, or if, in the opinion of counsel for the Underwriters, it is necessary to amend or supplement the Time of Sale Prospectus to comply with applicable law, forthwith to prepare, file with the Commission and furnish, at its own expense, to the Underwriters and to any dealer upon request, either amendments or supplements to the Time of Sale Prospectus so that the statements in the Time of Sale Prospectus as so amended or supplemented will not, in the light of the circumstances when the Time of Sale Prospectus is delivered to a prospective purchaser, be misleading or so that the Time of Sale Prospectus, as amended or supplemented, will no longer conflict with the Registration Statement, or so that the Time of Sale Prospectus, as amended or supplemented, will comply with applicable law.

(f) If, during such period after the first date of the public offering of the Shares as in the opinion of counsel for the Underwriters the Prospectus (or in lieu thereof the notice referred to in Rule 173(a) under the Securities Act) is required by law to be delivered in connection with sales by an Underwriter or dealer, any event shall occur or condition exist as a result of which it is necessary to amend or supplement the Prospectus in order to make the statements therein, in the light of the circumstances when the Prospectus (or in lieu thereof the notice referred to in Rule 173(a) under the Securities Act) is delivered to a purchaser, not misleading, or if, in the opinion of counsel for the Underwriters, it is necessary to amend or supplement the Prospectus to comply with applicable law, forthwith to prepare, file with the Commission and furnish, at its own expense, to the Underwriters and to the dealers (whose names and addresses you will furnish to the Company) to which Shares may have been sold by you on behalf of the Underwriters and to any other dealers upon request, either amendments or supplements to the

Prospectus so that the statements in the Prospectus as so amended or supplemented will not, in the light of the circumstances when the Prospectus (or in lieu thereof the notice referred to in Rule 173(a) under the Securities Act) is delivered to a purchaser, be misleading or so that the Prospectus, as amended or supplemented, will comply with applicable law.

(g) To endeavor to qualify the Shares for offer and sale under the securities or Blue Sky laws of such jurisdictions as you shall reasonably request; provided that in no event shall the Company or any of its subsidiaries be obligated to qualify to do business as a foreign corporation in any jurisdiction where it is not already so qualified, to file any general consent to service of process, or to subject itself to taxation in any jurisdiction where it is not already subject to taxation.

(h) To make generally available to the Company's security holders and to you as soon as practicable an earning statement covering a period of at least twelve months beginning with the first fiscal quarter of the Company occurring after the date of this Agreement which shall satisfy the provisions of Section 11(a) of the Securities Act and the rules and regulations of the Commission thereunder.

(i) To comply with all applicable securities and other laws, rules and regulations in each jurisdiction in which the Directed Shares are offered in connection with the Directed Share Program.

8. *Expenses.* Whether or not the transactions contemplated in this Agreement are consummated or this Agreement is terminated, the Company agrees to pay or cause to be paid all expenses incident to the performance of its obligations under this Agreement, including: (i) the fees, disbursements and expenses of the Company's counsel and the Company's accountants in connection with the registration and delivery of the Shares under the Securities Act and all other fees or expenses in connection with the preparation and filing of the Registration Statement, any preliminary prospectus, the Time of Sale Prospectus, the Prospectus, any free writing prospectus prepared by or on behalf of, used by, or referred to by the Company and amendments and supplements to any of the foregoing, including all printing costs associated therewith, and the mailing and delivering of copies thereof to the Underwriters and dealers, in the quantities hereinabove specified, (ii) all costs and expenses related to the transfer and delivery of the Shares to the Underwriters, including any transfer or other taxes payable thereon, (iii) the reasonable cost of printing or producing any Blue Sky or Legal Investment memorandum in connection with the offer and sale of the Shares under state securities laws and all expenses in connection with the qualification of the Shares for offer and sale under state securities laws as provided in Section 7(g) hereof, including filing fees and the reasonable fees and disbursements of counsel for the Underwriters in connection with such qualification and in connection with the Blue Sky or Legal Investment memorandum, (iv) all filing fees and the reasonable fees and disbursements of counsel to the Underwriters incurred in connection with the review and qualification of the offering of the Shares by the FINRA, (v) any counsel fees reasonably incurred on behalf of or disbursements by the QIU, (vi) all fees and expenses in connection with the preparation and filing of the registration statement on Form 8-A relating to the Common Stock and all costs and expenses incident to listing the Shares on [the NYSE/the NASDAQ Global Market], (vii) the cost of printing certificates representing the Shares, (viii) the costs and charges of any transfer agent, registrar or depository, (ix) half of the costs and expenses of the Company relating to

investor presentations on any “road show” undertaken in connection with the marketing of the offering of the Shares, including, without limitation, expenses associated with the preparation or dissemination of any electronic road show, expenses associated with the production of road show slides and graphics, fees and expenses of any consultants engaged in connection with the road show presentations with the prior approval of the Company, and travel and lodging expenses of the representatives and officers of the Company and any such consultants, except that the Underwriters will pay all of the cost of any aircraft chartered in connection with the road show, (x) the document production charges and expenses associated with printing this Agreement, (xi) all fees and disbursements of counsel incurred by the Underwriters in connection with the Directed Share Program and stamp duties, similar taxes or duties or other taxes, if any, incurred by the Underwriters in connection with the Directed Share Program, (xii) all expenses in connection with any offer and sale of the Shares outside of the United States, including filing fees and the reasonable fees and disbursements of counsel for the Underwriters in connection with offers and sales outside of the United States and (xiii) all other costs and expenses incident to the performance of the obligations of the Company hereunder for which provision is not otherwise made in this Section. It is understood, however, that except as provided in this Section, Section 10 entitled “Indemnity and Contribution,” Section 11 entitled “Directed Share Program Indemnification” and the last paragraph of Section 13 below, the Underwriters will pay all of their costs and expenses, including fees and disbursements of their counsel, stock transfer taxes payable on resale of any of the Shares by them, any advertising expenses connected with any offers they may make and all of the cost of any aircraft chartered in connection with any road show and half of the other costs and expenses relating to any road show as described in (ix) above.

9. *Covenants of the Underwriters.* Each Underwriter severally covenants with the Company not to take any action that would result in the Company being required to file with the Commission under Rule 433(d) under the Securities Act a free writing prospectus prepared by or on behalf of such Underwriter that otherwise would not be required to be filed by the Company thereunder, but for the action of the Underwriter.

10. *Indemnity and Contribution.* (a) The Company agrees to indemnify and hold harmless each Underwriter, each person, if any, who controls any Underwriter within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act, and each affiliate of any Underwriter within the meaning of Rule 405 under the Securities Act from and against any and all losses, claims, damages and liabilities (including, without limitation, any legal or other expenses reasonably incurred in connection with defending or investigating any such action or claim) caused by any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement or any amendment thereof, any preliminary prospectus, the Time of Sale Prospectus, any issuer free writing prospectus as defined in Rule 433(h) under the Securities Act, any Company information that the Company has filed, or is required to file, pursuant to Rule 433(d) under the Securities Act, or the Prospectus or any amendment or supplement thereto, or caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, except insofar as such losses, claims, damages or liabilities are caused by any such untrue statement or omission or alleged untrue statement or omission based upon information relating to any Underwriter furnished to the Company in writing by such Underwriter through you expressly for use therein.

(b) The Parent agrees to indemnify and hold harmless each Underwriter, each person, if any, who controls any Underwriter within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act, and each affiliate of any Underwriter within the meaning of Rule 405 under the Securities Act from and against any and all losses, claims, damages and liabilities (including, without limitation, any legal or other expenses reasonably incurred in connection with defending or investigating any such action or claim) caused by any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement or any amendment thereof, any preliminary prospectus, the Time of Sale Prospectus, any issuer free writing prospectus as defined in Rule 433(h) under the Securities Act, any Company information that the Company has filed, or is required to file, pursuant to Rule 433(d) under the Securities Act, or the Prospectus or any amendment or supplement thereto, or caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, but only with reference to information relating to Parent furnished to the Company in writing by Parent expressly for use in the Registration Statement, any preliminary prospectus, the Time of Sale Prospectus, any issuer free writing prospectus or the Prospectus or any amendment or supplement thereto.

(c) The Company also agrees to indemnify and hold harmless [Name of the QIU], each person, if any, who controls [Name of the QIU] within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act, and each affiliate of [Name of the QIU] within the meaning of Rule 405 under the Securities Act, from and against any and all losses, claims, damages and liabilities incurred as a result of [Name of the QIU]'s participation as a "qualified independent underwriter" within the meaning of the Rules of Conduct of the FINRA in connection with the offering of the Shares, except for any losses, claims, damages, liabilities and judgments resulting from [Name of the QIU]'s, or such controlling person's or affiliate's, bad faith, gross negligence or willful misconduct.

(d) Each Underwriter agrees, severally and not jointly, to indemnify and hold harmless the Company, the Parent, the directors of the Company, the officers of the Company who sign the Registration Statement and each person, if any, who controls the Company or the Parent within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act from and against any and all losses, claims, damages and liabilities (including, without limitation, any legal or other expenses reasonably incurred in connection with defending or investigating any such action or claim) caused by any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement or any amendment thereof, any preliminary prospectus, the Time of Sale Prospectus, any issuer free writing prospectus as defined in Rule 433(h) under the Securities Act, any Company information that the Company has filed, or is required to file, pursuant to Rule 433(d) under the Securities Act, or the Prospectus (as amended or supplemented if the Company shall have furnished any amendments or supplements thereto), or caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, but only with reference to information relating to such Underwriter furnished to the Company in writing by such Underwriter through you expressly for use in the Registration Statement, any preliminary prospectus, the Time of Sale Prospectus, any issuer free writing prospectus or the Prospectus or any amendment or supplement thereto.

(e) In case any proceeding (including any governmental investigation) shall be instituted involving any person in respect of which indemnity may be sought pursuant to Section 10(a), 10(b), 10(c) or 10(d), such person (the “**indemnified party**”) shall promptly notify the person against whom such indemnity may be sought (the “**indemnifying party**”) in writing and the indemnifying party, upon request of the indemnified party, shall retain counsel reasonably satisfactory to the indemnified party to represent the indemnified party and any others the indemnifying party may designate in such proceeding and shall pay the fees and disbursements of such counsel related to such proceeding. 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) the named parties to any such proceeding (including any impleaded parties) include both the indemnifying party and the indemnified party and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. It is understood that the indemnifying party shall not, in respect of the legal expenses of any indemnified party in connection with any proceeding or related proceedings in the same jurisdiction, be liable for (i) the fees and expenses of more than one separate firm (in addition to any local counsel) for all Underwriters and all persons, if any, who control any Underwriter within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act or who are affiliates of any Underwriter within the meaning of Rule 405 under the Securities Act, (ii) the fees and expenses of more than one separate firm (in addition to any local counsel) for the QIU, each person, if any, who controls the QIU within the meaning of either such Section or who are affiliates of the QIU within the meaning of Rule 405 under the Securities Act, (iii) the fees and expenses of more than one separate firm (in addition to any local counsel) for the Company, its directors, its officers who sign the Registration Statement and each person, if any, who controls the Company within the meaning of either such Section and (iv) the fees and expenses of more than one separate firm (in addition to any local counsel) for the Parent and all persons, if any, who control the Parent within the meaning of either such Section, and that all such fees and expenses shall be reimbursed as they are incurred. In the case of any such separate firm for the Underwriters and such control persons and affiliates of any Underwriters, such firm shall be designated in writing by Morgan Stanley & Co. Incorporated. In the case of any such separate firm for the QIU and such control persons and affiliates of the QIU, such firm shall be designated in writing by the QIU. In the case of any such separate firm for the Company, and such directors, officers and control persons of the Company, such firm shall be designated in writing by the Company. In the case of any such separate firm for the Parent and such control persons of the Parent, such firm shall be designated in writing by the Parent. 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 agrees to indemnify the indemnified party from and against any loss or liability by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for fees and expenses of counsel as contemplated by the second and third sentences of this paragraph, the indemnifying party agrees that it shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 45 days after receipt by such indemnifying party of the aforesaid request, (ii) such indemnifying party shall not have reimbursed the indemnified party in accordance with such request prior to the date of such

settlement and (iii) such indemnified party shall have given the indemnifying party at least 30 days' prior written notice of its intention to settle. No indemnifying party shall, without the prior written consent of the indemnified party, 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 on claims that are the subject matter of such proceeding.

(f) To the extent the indemnification provided for in Section 10(a), 10(b), 10(c) or 10(d) is unavailable to an indemnified party or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then each indemnifying party under such paragraph, in lieu of indemnifying such indemnified party thereunder, shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages or liabilities (i) in such proportion as is appropriate to reflect the relative benefits received by the indemnifying party or parties on the one hand and the indemnified party or parties on the other hand from the offering of the Shares or (ii) if the allocation provided by clause 10(f)(i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause 10(f)(i) above but also the relative fault of the indemnifying party or parties on the one hand and of the indemnified party or parties on the other hand in connection with the statements or omissions that resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative benefits received by the Company and the Parent on the one hand and the Underwriters or the QIU, as the case may be, on the other hand in connection with the offering of the Shares shall be deemed to be in the same respective proportions as the net proceeds from the offering of the Shares (before deducting expenses) received by the Company and the total underwriting discounts and commissions received by the Underwriters, in each case as set forth in the table on the cover of the Prospectus, or the fee received by the QIU, as the case may be, bear to the aggregate Public Offering Price of the Shares. The relative fault of the Company and the Parent on the one hand and the Underwriters or the QIU, as the case may be, on the other hand shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company or the Parent or by the Underwriters or the QIU, as the case may be, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Underwriters' respective obligations to contribute pursuant to this Section 10 are several in proportion to the respective number of Shares they have purchased hereunder, and not joint.

(g) The Company, the Parent and the Underwriters agree that it would not be just or equitable if contribution pursuant to this Section 10 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 Section 10(f). The amount paid or payable by an indemnified party as a result of the losses, claims, damages and liabilities referred to in Section 10(f) 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 10, no Underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Shares 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. 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. The remedies provided for in this Section 10 are not exclusive and shall not limit any rights or remedies which may otherwise be available to any indemnified party at law or in equity.

(h) The indemnity and contribution provisions contained in this Section 10 and the representations, warranties and other statements of the Company and the Parent contained in this Agreement shall remain operative and in full force and effect regardless of (i) any termination of this Agreement, (ii) any investigation made by or on behalf of any Underwriter, any person controlling any Underwriter or any affiliate of any Underwriter, the Parent or any person controlling the Parent, or the Company, its officers or directors or any person controlling the Company and (iii) acceptance of and payment for any of the Shares.

11. *Directed Share Program Indemnification.* (a) The Company agrees to indemnify and hold harmless Morgan Stanley & Co. Incorporated, each person, if any, who controls Morgan Stanley & Co. Incorporated within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act and each affiliate of Morgan Stanley & Co. Incorporated within the meaning of Rule 405 under the Securities Act (“**Morgan Stanley Entities**”) from and against any and all losses, claims, damages and liabilities (including, without limitation, any legal or other expenses reasonably incurred in connection with defending or investigating any such action or claim) (i) caused by any untrue statement or alleged untrue statement of a material fact contained in any material prepared by or with the consent of the Company for distribution to Participants in connection with the Directed Share Program or caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading; (ii) caused by the failure of any Participant to pay for and accept delivery of Directed Shares that the Participant agreed to purchase; or (iii) related to, arising out of, or in connection with the Directed Share Program, other than losses, claims, damages or liabilities (or expenses relating thereto) that are finally judicially determined to have resulted from the bad faith, willful misconduct or gross negligence of Morgan Stanley Entities.

(b) In case any proceeding (including any governmental investigation) shall be instituted involving any Morgan Stanley Entity in respect of which indemnity may be sought pursuant to Section 11(a), the Morgan Stanley Entity seeking indemnity, shall promptly notify the Company in writing and the Company, upon request of the Morgan Stanley Entity, shall retain counsel reasonably satisfactory to the Morgan Stanley Entity to represent the Morgan Stanley Entity and any others the Company may designate in such proceeding and shall pay the fees and disbursements of such counsel related to such proceeding. In any such proceeding, any Morgan Stanley Entity shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such Morgan Stanley Entity unless (i) the Company shall have agreed to the retention of such counsel or (ii) the named parties to any such proceeding (including any impleaded parties) include both the Company and the Morgan Stanley Entity and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. The Company shall not, in respect of the legal expenses of the Morgan Stanley Entities in connection with any proceeding or related

proceedings in the same jurisdiction, be liable for the fees and expenses of more than one separate firm (in addition to any local counsel) for all Morgan Stanley Entities. Any such separate firm for the Morgan Stanley Entities shall be designated in writing by Morgan Stanley & Co. Incorporated. The Company 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 Company agrees to indemnify the Morgan Stanley Entities from and against any loss or liability by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time a Morgan Stanley Entity shall have requested the Company to reimburse it for fees and expenses of counsel as contemplated by the second and third sentences of this paragraph, the Company agrees that it shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 45 days after receipt by the Company of the aforesaid request, (ii) the Company shall not have reimbursed the Morgan Stanley Entity in accordance with such request prior to the date of such settlement and (iii) such Morgan Stanley Entity shall have given the Company at least 30 days' prior written notice of its intention to settle. The Company shall not, without the prior written consent of Morgan Stanley & Co. Incorporated, effect any settlement of any pending or threatened proceeding in respect of which any Morgan Stanley Entity is or could have been a party and indemnity could have been sought hereunder by such Morgan Stanley Entity, unless such settlement includes an unconditional release of the Morgan Stanley Entities from all liability on claims that are the subject matter of such proceeding.

(c) To the extent the indemnification provided for in Section 11(a) is unavailable to a Morgan Stanley Entity or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then the Company in lieu of indemnifying the Morgan Stanley Entity thereunder, shall contribute to the amount paid or payable by the Morgan Stanley Entity as a result of such losses, claims, damages or liabilities (i) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Morgan Stanley Entities on the other hand from the offering of the Directed Shares or (ii) if the allocation provided by clause 11(c)(i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause 11(c)(i) above but also the relative fault of the Company on the one hand and of the Morgan Stanley Entities on the other hand in connection with any statements or omissions that resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Morgan Stanley Entities on the other hand in connection with the offering of the Directed Shares shall be deemed to be in the same respective proportions as the net proceeds from the offering of the Directed Shares (before deducting expenses) and the total underwriting discounts and commissions received by the Morgan Stanley Entities for the Directed Shares, bear to the aggregate Public Offering Price of the Directed Shares. If the loss, claim, damage or liability is caused by an untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact, the relative fault of the Company on the one hand and the Morgan Stanley Entities on the other hand shall be determined by reference to, among other things, whether the untrue or alleged untrue statement or the omission or alleged omission relates to information supplied by the Company or by the Morgan Stanley Entities and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

(d) The Company and the Morgan Stanley Entities agree that it would not be just or equitable if contribution pursuant to this Section 11 were determined by *pro rata* allocation (even if the Morgan Stanley Entities 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 Section 11(c). The amount paid or payable by the Morgan Stanley Entities as a result of the losses, claims, damages and liabilities 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 the Morgan Stanley Entities in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 11, no Morgan Stanley Entity shall be required to contribute any amount in excess of the amount by which the total price at which the Directed Shares distributed to the public were offered to the public exceeds the amount of any damages that such Morgan Stanley Entity has otherwise been required to pay. The remedies provided for in this Section 11 are not exclusive and shall not limit any rights or remedies which may otherwise be available to any indemnified party at law or in equity.

(e) The indemnity and contribution provisions contained in this Section 11 shall remain operative and in full force and effect regardless of (i) any termination of this Agreement, (ii) any investigation made by or on behalf of any Morgan Stanley Entity or the Company, its officers or directors or any person controlling the Company and (iii) acceptance of and payment for any of the Directed Shares.

12. *Termination.* The Underwriters may terminate this Agreement by notice given by you to the Company, if after the execution and delivery of this Agreement and prior to the Closing Date (i) trading generally shall have been suspended or materially limited on, or by, as the case may be, any of the New York Stock Exchange, the American Stock Exchange, the NASDAQ Global Market, the Chicago Board of Options Exchange, the Chicago Mercantile Exchange or the Chicago Board of Trade, (ii) trading of any securities of the Company shall have been suspended on any exchange or in any over the counter market, (iii) a material disruption in securities settlement, payment or clearance services in the United States shall have occurred, (iv) any moratorium on commercial banking activities shall have been declared by Federal or New York State authorities or (v) there shall have occurred any outbreak or escalation of hostilities, or any change in financial markets or any calamity or crisis that, in your judgment, is material and adverse and which, singly or together with any other event specified in this clause (v), makes it, in your judgment, impracticable or inadvisable to proceed with the offer, sale or delivery of the Shares on the terms and in the manner contemplated in the Time of Sale Prospectus or the Prospectus.

13. *Effectiveness; Defaulting Underwriters.* This Agreement shall become effective upon the execution and delivery hereof by the parties hereto.

If, on the Closing Date or an Option Closing Date, as the case may be, any one or more of the Underwriters shall fail or refuse to purchase Shares that it has or they have agreed to purchase hereunder on such date, and the aggregate number of Shares which such defaulting Underwriter or Underwriters agreed but failed or refused to purchase is not more than one-tenth of the aggregate number of the Shares to be purchased on such date, the other Underwriters shall be obligated severally in the proportions that the number of Firm Shares set forth opposite their

respective names in Schedule I bears to the aggregate number of Firm Shares set forth opposite the names of all such non-defaulting Underwriters, or in such other proportions as you may specify, to purchase the Shares which such defaulting Underwriter or Underwriters agreed but failed or refused to purchase on such date; *provided* that in no event shall the number of Shares that any Underwriter has agreed to purchase pursuant to this Agreement be increased pursuant to this Section 13 by an amount in excess of one-ninth of such number of Shares without the written consent of such Underwriter. If, on the Closing Date, any Underwriter or Underwriters shall fail or refuse to purchase Firm Shares and the aggregate number of Firm Shares with respect to which such default occurs is more than one-tenth of the aggregate number of Firm Shares to be purchased on such date, and arrangements satisfactory to you and the Company for the purchase of such Firm Shares are not made within 36 hours after such default, this Agreement shall terminate without liability on the part of any non-defaulting Underwriter, the Company or the Parent. In any such case either you or the Company shall have the right to postpone the Closing Date, but in no event for longer than seven days, in order that the required changes, if any, in the Registration Statement, in the Time of Sale Prospectus, in the Prospectus or in any other documents or arrangements may be effected. If, on an Option Closing Date, any Underwriter or Underwriters shall fail or refuse to purchase Additional Shares and the aggregate number of Additional Shares with respect to which such default occurs is more than one-tenth of the aggregate number of Additional Shares to be purchased on such Option Closing Date, the non-defaulting Underwriters shall have the option to (i) terminate their obligation hereunder to purchase the Additional Shares to be sold on such Option Closing Date or (ii) purchase not less than the number of Additional Shares that such non-defaulting Underwriters would have been obligated to purchase in the absence of such default. Any action taken under this paragraph shall not relieve any defaulting Underwriter from liability in respect of any default of such Underwriter under this Agreement.

If this Agreement shall be terminated by the Underwriters, or any of them, because of any failure or refusal on the part of the Company or the Parent to comply with the terms or to fulfill any of the conditions of this Agreement, or if for any reason the Company or the Parent shall be unable to perform its obligations under this Agreement, the Company will reimburse the Underwriters or such Underwriters as have so terminated this Agreement with respect to themselves, severally, for all out-of-pocket expenses (including the fees and disbursements of their counsel) reasonably incurred by such Underwriters in connection with this Agreement or the offering contemplated hereunder.

14. *Entire Agreement.* (a) This Agreement, together with any contemporaneous written agreements and any prior written agreements (to the extent not superseded by this Agreement) that relate to the offering of the Shares, represents the entire agreement between the Company and the Parent, on the one hand, and the Underwriters, on the other, with respect to the preparation of any preliminary prospectus, the Time of Sale Prospectus, the Prospectus, the conduct of the offering, and the purchase and sale of the Shares.

(b) The Company acknowledges that in connection with the offering of the Shares: (i) the Underwriters have acted at arms length, are not agents of, and owe no fiduciary duties to, the Company or any other person, (ii) the Underwriters owe the Company only those duties and obligations set forth in this Agreement and prior written agreements (to the extent not superseded by this Agreement), if any, and (iii) the Underwriters may have interests that differ from those of

the Company. The Company waives to the full extent permitted by applicable law any claims it may have against the Underwriters arising from an alleged breach of fiduciary duty in connection with the offering of the Shares.

15. *Counterparts*. This Agreement may be signed in two or more counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

16. *Applicable Law*. This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York. The Company is registered to do business in the State of New York as NY MSCI Inc.

17. *Headings*. The headings of the sections of this Agreement have been inserted for convenience of reference only and shall not be deemed a part of this Agreement.

18. *Notices*. All communications hereunder shall be in writing and effective only upon receipt and if to the Underwriters shall be delivered, mailed or sent to you in care of Morgan Stanley & Co. Incorporated, 1585 Broadway, New York, New York 10036, Attention: Equity Syndicate Desk, with a copy to the Legal Department; if to the Company shall be delivered, mailed or sent to 88 Pine Street, New York, New York 10005, Attention: Frederick W. Bogdan, General Counsel, and if to the Parent shall be delivered, mailed or sent to 1585 Broadway, New York, New York 10036, Attention: Treasurer.

*[Remainder of this page intentionally left blank]*

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Very truly yours,

MSCI INC.

By: \_\_\_\_\_  
Name:  
Title:

MORGAN STANLEY

By: \_\_\_\_\_  
Name:  
Title:

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Accepted as of the date hereof

Morgan Stanley & Co. Incorporated  
[NAMES OF OTHER CO-MANAGERS]

Acting severally on behalf of themselves and the several  
Underwriters named in Schedule I hereto

By: Morgan Stanley & Co. Incorporated

By: \_\_\_\_\_

Name:

Title:

By: [Name of other Co-Managers]

By: \_\_\_\_\_

Name:

Title:

## AMENDED AND RESTATED CERTIFICATE OF INCORPORATION

OF

MSCI INC.

[        ], 2007

MSCI Inc., a Delaware corporation, the original Certificate of Incorporation of which was filed with the Secretary of State of the State of Delaware on [•], HEREBY CERTIFIES that this Amended and Restated Certificate of Incorporation restating, integrating and amending its Certificate of Incorporation was duly proposed by its Board of Directors and adopted by its stockholders in accordance with Sections 228, 242 and 245 of the General Corporation Law of the State of Delaware.

## ARTICLE 1

NAME

The name of the corporation (which is hereinafter referred to as the “**Corporation**”) is: MSCI Inc.

## ARTICLE 2

ADDRESS

The address of the Corporation’s registered office in the State of Delaware is The Corporation Trust Center, 1209 Orange Street in the City of Wilmington, County of New Castle. The name of the Corporation’s registered agent at such address is The Corporation Trust Company.

## ARTICLE 3

PURPOSE

The purpose of the Corporation shall be to engage in any lawful act or activity for which corporations may be organized and incorporated under the General Corporation Law of the State of Delaware.

ARTICLE 4  
CAPITALIZATION

The total number of shares of stock which the Corporation shall have authority to issue is [•], consisting of [•] shares of Class A common stock, par value \$0.01 per share (the “**Class A Common Stock**”), [•] shares of Class B common stock, par value \$0.01 per share (the “**Class B Common Stock**” and, together with the Class A Common Stock, the “**Common Stock**”), and [•] shares of preferred stock, par value \$0.01 per share (the “**Preferred Stock**”). Upon the effectiveness of this Amended and Restated Certificate of Incorporation (the “**Effective Time**”), each share of Common Stock issued and outstanding immediately prior to the Effective Time shall be automatically converted, without further action on the part of the Corporation or any holder of such Common Stock, into [•] shares of Class B Common Stock. The number of authorized shares of Class A Common Stock or Class B Common Stock may be increased or decreased (but not below the number of shares of Class A Common Stock or Class B Common Stock then outstanding) by any such affirmative vote as may be required at that time by the General Corporation Law of the State of Delaware.

Common Stock

(a) *Ranking.* The preferences, limitations and rights of the Class A Common Stock and Class B Common Stock, and the qualifications and restrictions thereof, shall be in all respects identical, except as otherwise required by law or expressly provided for in this Certificate of Incorporation.

(b) *Voting.* Except as otherwise provided by law or by a Preferred Stock Designation (as defined in this Article 4), the holders of outstanding shares of Common Stock shall have the exclusive right to vote for the election of directors and for all other purposes. Except as otherwise required by law or expressly provided for in this Certificate of Incorporation:

(i) each share of Class A Common Stock outstanding on any record date shall be entitled to one vote and each share of Class B Common Stock outstanding on such record date shall be entitled to five votes in respect of any actions of shareholders for which such record date was fixed; *provided, however,* that each share of Common Stock shall have one vote only for purposes of approving any of the following matters:

(A) the consummation of any merger, consolidation or other business combination of the Corporation, or the issuance, sale, transfer or assignment of securities of the Corporation that would, following such issuance, sale, transfer or assignment, represent a majority of the voting power of the Corporation’s then-outstanding Common Stock to any person, in a single transaction or series of related transactions;

(B) the sale, lease, exchange or other disposition of all or substantially all of the assets of the Corporation and its subsidiaries on a consolidated basis, directly or indirectly, in one or more transactions, to any person; or

(C) the voluntary liquidation, dissolution or winding up of the Corporation;

(ii) the Class A Common Stock and the Class B Common Stock shall vote together as a single class;

(iii) the vote required to constitute approval of any corporate action shall be a majority of all votes cast on the matter by the holders of outstanding shares of Common Stock at a meeting at which a quorum exists; and

(iv) holders of Common Stock shall be entitled to cast votes in person or by proxy in the manner and to the extent permitted under the Bylaws of the Corporation (the "**Bylaws**").

(c) *Amendments.* So long as any shares of Class A Common Stock are outstanding, the Corporation shall not, without the affirmative vote of the holders of a majority of the voting power of the outstanding shares of Class A Common Stock, (i) amend, alter or repeal any provision of this Article 4 so as to affect adversely the relative rights, preferences, qualifications, limitations or restrictions of the Class A Common Stock as compared to those of the Class B Common Stock; or (ii) take any other action upon which class voting is required by law. So long as any shares of Class B Common Stock are outstanding, the Corporation shall not, without the affirmative vote of the holders of a majority of the voting power of the outstanding shares of Class B Common Stock, (i) amend, alter or repeal any provision of this Article 4 so as to affect adversely the relative rights, preferences, qualifications, limitations or restrictions of the Class B Common Stock as compared to those of the Class A Common Stock; or (ii) take any other action upon which class voting is required by law.

(d) *Dividends; Changes in Common Stock.* No dividend or distribution may be declared or paid on any share of Class A Common Stock unless a dividend or distribution, payable in the same consideration and manner, is simultaneously declared or paid, as the case may be, on each share of Class B Common Stock, nor shall any dividend or distribution be declared or paid on any share of Class B Common Stock unless a dividend or distribution, payable in the same consideration and manner, is simultaneously declared or paid, as the case

may be, on each share of Class A Common Stock, in each case without preference or priority of any kind; *provided, however*, that if dividends are declared that are payable in shares of Class A Common Stock or Class B Common Stock or in rights, options, warrants or other securities convertible into or exchangeable for shares of Class A Common Stock or Class B Common Stock, dividends shall be declared that are payable at the same rate on both classes of Common Stock and the dividends payable in shares of Class A Common Stock or in rights, options, warrants or other securities convertible into or exchangeable for shares of Class A Common Stock shall be payable to holders of Class A Common Stock and the dividends payable in shares of Class B Common Stock or in rights, options warrants or other securities convertible into or exchangeable for shares of Class B Common Stock shall be payable to holders of Class B Common Stock.

If the Corporation in any manner subdivides or combines the outstanding shares of Class B Common Stock, the outstanding shares of the Class A Common Stock shall be proportionately subdivided or combined, as the case may be. Similarly, if the Corporation in any manner subdivides or combines the outstanding shares of Class A Common Stock, the outstanding shares of Class B Common Stock shall be proportionately subdivided or combined, as the case may be.

(e) *Liquidation*. Subject to the rights of the holders of Preferred Stock, shares of Class B Common Stock shall rank *pari passu* with shares of Class A Common Stock as to distribution of assets in the event of any liquidation, dissolution or winding up of the affairs of the Corporation, whether voluntary or involuntary. A liquidation, dissolution or winding up of the Corporation, as such terms are used in this paragraph (e), shall not be deemed to be occasioned by or to include any voluntary consolidation or merger of the Corporation with or into any other corporation or other entity or corporations or other entities or a sale, lease or conveyance of all or a part of its assets.

(f) *Reorganization or Merger*. Subject to the rights of the holders of Preferred Stock, in the case of any reorganization, share exchange or merger of the Corporation with another corporation in which shares of Class A Common Stock or Class B Common Stock are converted into (or entitled to receive with respect thereto) shares of stock and/or other securities or property (including cash), each holder of a share of Class A Common Stock and each holder of a share of Class B Common Stock shall be entitled to receive with respect to each such share the same kind and amount of shares of stock and other securities and property (including cash). In the event that the holders of shares of Class A Common Stock or of shares of Class B Common Stock are granted rights to elect to receive one of two or more alternative forms of consideration, the foregoing provision shall be deemed satisfied if holders of shares of Class A Common Stock and holders of shares of Class B Common Stock are granted substantially identical election rights, as the case may be.

(g) *Conversion of Class B Common Stock.*

(i) Prior to the date on which shares of Class B Common Stock are transferred to shareholders or securityholders of Morgan Stanley, a Delaware Corporation (“**Morgan Stanley**”), in a transaction, including any distribution in exchange for Morgan Stanley’s shares or securities, intended to qualify as a tax-free distribution under Section 355 of the Internal Revenue Code, or any corresponding provision of any successor statute (a “**Tax-Free Spin-Off**”), each record holder of shares of Class B Common Stock may convert any or all of such shares into an equal number of shares of Class A Common Stock by surrendering the certificates, if any, for such shares, accompanied by any payment required for documentary, stamp or similar issue or transfer taxes and by a written notice by such record holder to the Corporation stating that such record holder desires to convert such shares of Class B Common Stock into the same number of shares of Class A Common Stock (including, but not limited to, for the purpose of the sale or other disposition of such shares of Class A Common Stock), and requesting that the Corporation issue all of such shares of Class A Common Stock to the persons named in such notice. Such notice shall set forth the number of shares of Class A Common Stock to be issued to each such person and the denominations in which the certificates, if any, therefor are to be issued. To the extent permitted by law, such voluntary conversion shall be deemed to have been effected at the close of business on the date of such surrender. Following a Tax-Free Spin-Off, shares of Class B Common Stock shall no longer be convertible into shares of Class A Common Stock. For purposes of this Section, a Tax-Free Spin-Off shall be deemed to have occurred at the time the shares are first transferred to shareholders or securityholders of Morgan Stanley following receipt of a certificate described in (C) of paragraph (g)(vi) of this Article 4 below.

(ii) Prior to the occurrence of a Tax-Free Spin-Off, each share of Class B Common Stock shall automatically be converted into one share of Class A Common Stock upon the transfer of such share if, after such transfer, such share is not beneficially owned by Morgan Stanley, Capital Group International Inc., a California corporation (“**Capital Group**”), or by any of their subsidiaries or Affiliates (as defined in Article 10 of this Certificate of Incorporation). Shares of Class B Common Stock shall not convert automatically into shares of Class A Common Stock (A) as a result of a transfer of Class B Common Stock to shareholders or securityholders of Morgan Stanley in a Tax-Free Spin-Off or (B) in any transfer after a Tax-Free Spin-Off.

(iii) The Corporation shall provide notice of any automatic conversion of outstanding shares of Class B Common Stock to holders of record of such shares of Common Stock pursuant to paragraph (g)(ii) of this Article 4 above as soon as practicable following such conversion; *provided, however*, that the Corporation may satisfy such notice requirements by providing such notice prior to such conversion. Such notice shall be provided by any means then permitted by the General Corporation Law of the State of Delaware; *provided, however*, that no failure to give such notice nor any defect therein shall affect the validity of the automatic conversion of any shares of Class B Common Stock. Each such notice shall, as appropriate, (A) state the automatic conversion date; (B) identify the outstanding shares of Class B Common Stock that are automatically converted; and (C) the place or places where certificates if any, for such shares may be surrendered in exchange for certificates, if any, representing Class A Common Stock, or the method by which book-entry interest in the Class A Common Stock may be obtained in exchange for such certificates in respect of shares of Class B Common Stock.

(iv) Immediately upon conversion of any shares of Class B Common Stock into shares of Class A Common Stock pursuant to the provisions of this Article 4, the rights of the holders of shares of Class B Common Stock as such shall cease and such holders shall be treated for all purposes as having become the record owners of the shares of Class A Common Stock issuable upon such conversion; *provided, however*, that such persons shall be entitled to receive when paid any dividends declared on the Class B Common Stock as of a record date preceding the time of such conversion and unpaid as of the time of such conversion subject to the following sentence. Upon any conversion of shares of Class B Common Stock into shares of Class A Common Stock pursuant to the provisions of this Article 4, any dividend for which the record date or payment date shall be subsequent to such conversion which may have been declared on the shares of Class B Common Stock so converted shall be deemed to have been declared, and shall be payable, with respect to the shares of Class A Common Stock into or for which such shares of Class B Common Stock shall have been so converted, and any such dividend that shall have been declared on such shares payable in shares of Class B Common Stock shall be deemed to have been declared, and shall be payable, in shares of Class A Common Stock.

(v) Prior to the occurrence of a Tax-Free Spin-Off, holders of shares of Class B Common Stock may (A) sell or otherwise dispose of or transfer any or all of such shares held by them, respectively, only in connection with a transfer that meets the requirements of paragraph (g)(vi) of this Article 4 below, and under no other circumstances; or (B) convert any or all of such shares into shares of Class A Common Stock (including, but not limited to, for the purpose of the sale or other disposition of such shares of Class A Common Stock to any person as provided in paragraph (g)(i) of this Article 4 above). Prior to the occurrence of a Tax-Free Spin-Off, no one other than persons in whose names shares of Class B Common Stock become registered on the original stock ledger of the Corporation, or transferees or successive transferees who receive shares of Class B Common Stock in connection with a transfer meeting the requirements set forth in paragraph (g)(vi) of this Article 4 below, shall have the status of an owner or holder of shares of Class B Common Stock or be recognized as such by the Corporation or be otherwise entitled to enjoy for his or her own benefit the special rights and powers of a holder of shares of Class B Common Stock. Holders of shares of Class B Common Stock may at any and all times transfer to any person the shares of Class A Common Stock issuable upon conversion of such shares of Class B Common Stock (subject to any restrictions at such time on transfers of shares of Class A Common Stock).

(vi) Prior to the occurrence of a Tax-Free Spin-Off, shares of Class B Common Stock shall be transferred on the books of the Corporation upon presentation at the office of the Secretary of the Corporation (or at such additional place or places as may from time to time be designated by the Secretary or any Assistant Secretary of the Corporation) of proper transfer documents, accompanied by a certificate stating any of the following: (A) that such transfer is to Morgan Stanley or an Affiliate (as defined in Article 10 of this Certificate of Incorporation) or a subsidiary of Morgan Stanley; (B) that such transfer is to Capital Group or an Affiliate (as defined in Article 10 of this Certificate of Incorporation) or a subsidiary of Capital Group; or (C) that such transfer is to the shareholders or securityholders of Morgan Stanley in connection with a Tax-Free Spin-Off.

(vii) Prior to the occurrence of a Tax-Free Spin-Off, every certificate of shares of Class B Common Stock, if any, shall bear a legend on its face reading as follows:

THE SHARES OF CLASS B COMMON STOCK REPRESENTED BY THIS CERTIFICATE MAY NOT BE TRANSFERRED TO ANY PERSON IN CONNECTION WITH A TRANSFER THAT DOES NOT MEET THE REQUIREMENTS SET FORTH IN PARAGRAPH (g)(vi) OF

ARTICLE 4 OF THE AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF THIS CORPORATION AND NO PERSON WHO RECEIVES SUCH SHARES IN CONNECTION WITH A TRANSFER THAT DOES NOT MEET THE REQUIREMENTS PRESCRIBED IN SUCH ARTICLE IS ENTITLED TO OWN OR TO BE REGISTERED AS THE RECORD HOLDER OF SUCH SHARES OF CLASS B COMMON STOCK, BUT THE RECORD HOLDER OF THIS CERTIFICATE MAY AT SUCH TIME AND IN THE MANNER SET FORTH IN PARAGRAPH (g) OF ARTICLE 4 OF THE AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF THIS CORPORATION CONVERT SUCH SHARES OF CLASS B COMMON STOCK INTO THE SAME NUMBER OF SHARES OF CLASS A COMMON STOCK, INCLUDING BUT NOT LIMITED TO, FOR PURPOSES OF EFFECTING THE SALE OR OTHER DISPOSITION OF SUCH SHARES OF CLASS A COMMON STOCK TO ANY PERSON. EACH HOLDER OF THIS CERTIFICATE, BY ACCEPTING THE SAME, ACCEPTS AND AGREES TO ALL OF THE FOREGOING.

Upon and after the transfer of shares of Class B Common Stock in a Tax-Free Spin-Off, certificates for shares of Class B Common Stock, if any, shall no longer bear the legend set forth above.

(viii) The Corporation shall at all times reserve and keep available, out of its authorized but unissued Common Stock, such number of shares of Class A Common Stock as would become issuable upon the conversion of all shares of Class B Common Stock then outstanding.

#### Preferred Stock

The Preferred Stock may be issued from time to time in one or more series. The Board of Directors is hereby authorized to provide for the issuance of shares of Preferred Stock in series and, by filing a certificate pursuant to the applicable law of the State of Delaware (hereinafter referred to as a “**Preferred Stock Designation**”), to establish from time to time the number of shares to be included in each such series, and to fix the designation, powers, preferences and rights of the shares of each such series and the qualifications, limitations and restrictions thereof. The authority of the Board of Directors with respect to each series shall include, but not be limited to, determination of the following: (i) the designation of the series, which may be by distinguishing number, letter or title; (ii) the number of shares of the series, which number the Board of Directors may thereafter (except where otherwise provided in the Preferred Stock Designation)

increase or decrease (but not below the number of shares thereof then outstanding); (iii) the amounts payable on, and the preferences, if any, of shares of the series in respect of dividends, and whether such dividends, if any, shall be cumulative or non-cumulative; (iv) dates at which dividends, if any, shall be payable; (v) the redemption rights and price or prices, if any, for shares of the series; (vi) the terms and amount of any sinking fund provided for the purchase or redemption of shares of the series; (vii) the amounts payable on, and the preferences, if any, of shares of the series in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation; (viii) whether the shares of the series shall be convertible into or exchangeable for shares of any other class or series, or any other security, of the Corporation or any other corporation, and, if so, the specification of such other class or series of such other security, the conversion or exchange price or prices or rate or rates, any adjustments thereof, the date or dates at which such shares shall be convertible or exchangeable and all other terms and conditions upon which such conversion or exchange may be made; (ix) restrictions on the issuance of shares of the same series or of any other class or series; (x) the voting rights, if any, of the holders of shares of the series; and (xi) such other powers, preferences and relative, participating, optional and other special rights, and the qualifications, limitations and restrictions thereof, as the Board of Directors determines.

The Common Stock shall be subject to the express terms of the Preferred Stock and any series thereof. Except as may be provided in this Certificate of Incorporation or in a Preferred Stock Designation or by applicable law, the holders of Preferred Stock shall not be entitled to receive notice of any meeting of stockholders at which they are not entitled to vote. The holders of the shares of Common Stock shall at all times, except as otherwise provided in this Certificate of Incorporation or as required by law, vote as one class, together with the holders of any other class or series of stock of the Corporation accorded such general voting rights.

The Corporation shall be entitled to treat the person in whose name any share of its stock is registered as the owner thereof for all purposes and shall not be bound to recognize any equitable or other claim to, or interest in, such share on the part of any other person, whether or not the Corporation shall have notice thereof, except as expressly provided by applicable law.

ARTICLE 5  
BY-LAWS

In furtherance of, and not in limitation of, the powers conferred by law, the Board of Directors is expressly authorized and empowered:

(a) to adopt, amend or repeal the Bylaws of the Corporation; *provided, however*, that the Bylaws adopted by the Board of Directors under the powers hereby conferred may be amended or repealed by the Board of Directors or by the stockholders having voting power with respect thereto; *provided, further* that, in the case of amendments by stockholders, the affirmative vote of the holders of at least 80 percent of the voting power of the then outstanding Voting Stock (as defined in Article 12), voting together as a single class, shall be required in order for the stockholders to alter, amend or repeal any provision of the Bylaws or to adopt any additional Bylaw; and

(b) from time to time to determine whether and to what extent, and at what times and places, and under what conditions and regulations, the accounts and books of the Corporation, or any of them, shall be open to inspection of stockholders; and, except as so determined or as expressly provided in this Certificate of Incorporation or in any Preferred Stock Designation, no stockholder shall have any right to inspect any account, book or document of the Corporation other than such rights as may be conferred by applicable law.

The Corporation may in its Bylaws confer powers upon the Board of Directors in addition to the foregoing and in addition to the powers and authorities expressly conferred upon the Board of Directors by applicable law.

ARTICLE 6  
ACTION OF STOCKHOLDERS

Prior to a transaction or series of transactions which results in Morgan Stanley or its Affiliates (as defined in Article 10 of this Certificate of Incorporation) owning in the aggregate less than 50% of the aggregate voting power of the Voting Stock (as defined in Article 12 of this Certificate of Incorporation, and as calculated on a fully-diluted basis and without giving effect to paragraph (b)(i)(A) – (C) of Article 4) of the Corporation (a “**Change of Control**”), the stockholders reserve the right to amend this Certificate of Incorporation in any manner as permitted by the General Corporation Law of the State of Delaware and all rights and powers conferred herein on directors and officers, if any, are subject to this reserved power.

Immediately upon the occurrence of a Change of Control and without any action on the part of the Corporation or the stockholders, any action required or permitted to be taken by the stockholders of the Corporation must be effected at a duly called annual or special meeting of stockholders of the Corporation and may not be effected by any consent in writing in lieu of a meeting of such stockholders, subject to the rights of the holders of any series of Preferred Stock or any other series or class of stock as set forth in this Certificate of Incorporation.

ARTICLE 7  
BOARD OF DIRECTORS

Subject to the rights of the holders of any series of Preferred Stock, or any other series or class of stock as set forth in this Certificate of Incorporation, to elect additional directors under specified circumstances, the number of directors of the Corporation shall be fixed in such manner as prescribed in the Bylaws of the Corporation and may be increased or decreased from time to time in such manner as prescribed in the Bylaws.

Unless and except to the extent that the Bylaws of the Corporation shall so require, the election of directors of the Corporation need not be by written ballot.

The directors, other than those who may be elected by the holders of any series of Preferred Stock or any other series or class of stock as set forth in this Certificate of Incorporation, shall be elected annually at each annual meeting of stockholders of the Corporation to hold office for a term expiring at the next annual meeting of stockholders, with each director to hold office until his or her successor shall have been duly elected and qualified.

Subject to the rights of the holders of any series of Preferred Stock, or any other series or class of stock as set forth in this Certificate of Incorporation, to elect additional directors under specified circumstances, vacancies resulting from death, resignation, retirement, disqualification, removal from office or other cause, and newly created directorships resulting from any increase in the authorized number of directors, may be filled only by the affirmative vote of a majority of the remaining directors, though less than a quorum of the Board of Directors, and directors so chosen shall hold office for a term expiring at the next annual meeting of stockholders, and until such director's successor shall have been duly elected and qualified. No decrease in the number of authorized directors constituting the Board of Directors shall shorten the term of any incumbent director.

Any director may be removed from office at any time, with or without cause.

ARTICLE 8  
INDEMNIFICATION

Each person who is or was a director or officer of the Corporation shall be indemnified by the Corporation to the fullest extent permitted from time to time by the General Corporation Law of the State of Delaware as the same exists or may hereafter be amended (but, if permitted by applicable law, in the case of any such amendment, only to the extent that such amendment permits the Corporation

to provide broader indemnification rights than said law permitted the Corporation to provide prior to such amendment) or any other applicable laws as presently or hereafter in effect. The Corporation may, by action of the Board of Directors, provide indemnification to employees and agents (other than a director or officer) of the Corporation, to directors, officers, employees or agents of a subsidiary, and to each person serving as a director, officer, partner, member, employee or agent of another corporation, partnership, limited liability company, joint venture, trust or other enterprise, at the request of the Corporation, with the same scope and effect as the foregoing indemnification of directors and officers of the Corporation. The Corporation shall be required to indemnify any person seeking indemnification in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the Board of Directors or is a proceeding to enforce such person's claim to indemnification pursuant to the rights granted by this Certificate of Incorporation or otherwise by the Corporation. Without limiting the generality or the effect of the foregoing, the Corporation may enter into one or more agreements with any person which provide for indemnification greater or different than that provided in this Article 8. Any amendment or repeal of this Article 8 shall not adversely affect any right or protection existing hereunder in respect of any act or omission occurring prior to such amendment or repeal.

ARTICLE 9  
DIRECTOR'S LIABILITY

A director of the Corporation shall not be personally liable to the Corporation or its stockholders 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 stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the General Corporation Law of the State of Delaware, or (iv) for any transaction from which the director derived an improper personal benefit. Any amendment or repeal of this Article 9 shall not adversely affect any right or protection of a director of the Corporation existing hereunder in respect of any act or omission occurring prior to such amendment or repeal.

If the General Corporation Law of the State of Delaware shall be amended to authorize corporate action further eliminating or limiting the liability of directors, then a director of the Corporation, in addition to the circumstances in which he is not liable immediately prior to such amendment, shall be free of liability to the fullest extent permitted by the General Corporation Law of the State of Delaware, as so amended.

ARTICLE 10  
CORPORATE OPPORTUNITIES

The Corporation hereby acknowledges and agrees that, notwithstanding any other provisions of this Certificate of Incorporation:

(a) Nothing herein shall in any way limit or be construed as limiting the ability of Morgan Stanley or any member (other than members employed by the Corporation) of the Board of Directors who is an Affiliate (as defined below) of Morgan Stanley (each, an “**Unlimited Party**”) to, and such Unlimited Parties may, in the past, present or future, carry out and engage in any and all activities associated with any business, including, without limitation, principal investments and underwriting (including investments in, and underwriting investments of, securities of the Unlimited Parties or of other entities directly or indirectly involved in any aspect of the financial services industry, including, without limitation, direct competitors of the Corporation), trading, brokerage, agency, financing, derivatives, foreign exchange and asset management activities, and for the avoidance of doubt and without limiting the generality of the foregoing, the Unlimited Parties may: (i) purchase and hold long or short positions, otherwise make investments, trade or otherwise effect transactions, for their own account or the account of their customers, in the debt or equity securities or loans of entities that may directly or indirectly compete with any or all of the business of the Corporation (the “**Other Companies**”); and (ii) provide financial advice to the Other Companies.

(b) The Unlimited Parties may have information that may be of interest or value to the Corporation (the “**Information**”) regarding various matters, including, without limitation, (i) each Unlimited Party’s products, plans, services and technology, and plans and strategies relating thereto, (ii) current and future investments each Unlimited Party has made, may make, may consider or may become aware of with respect to other companies and other products, services and technology, including without limitation, any Other Companies, and (iii) developments with respect to the technologies, products and services, and plans and strategies relating thereto, including, without, limitation, any Other Companies. The Corporation agrees that the Unlimited Parties shall have no duty to disclose any Information to the Corporation or permit the Corporation to participate in any investments or transactions based on any Information, or to otherwise take advantage of any opportunity that may be of interest to the Corporation if it were aware of such Information.

(c) Without limiting the foregoing, the doctrine of corporate opportunity shall not apply as between the Corporation or any Unlimited Party, and (i) the Unlimited Parties shall have no obligation to refrain from (A) engaging in any business opportunity, transaction or other matter that involves any aspect of the

financial services industry or otherwise developing, marketing or using any products or services that compete, directly or indirectly, with those of the Corporation (whether presently existing or arising in the future) (an “**Other Business**”), (B) investing or owning any interest publicly or privately in, entering into any venture, agreement or arrangement with, or developing a business relationship or strategic relationship with, any entity engaged in any Other Business, (C) doing business with any client or customer of the Corporation or (D) employing or otherwise engaging a former officer or employee of the Corporation; (ii) the Corporation shall not have any right in or to, or to be offered any opportunity to participate or invest in, any Other Business engaged or to be engaged in by any Unlimited Party or any right in or to any income or profits therefrom; and (iii) no Unlimited Party shall have any duty to communicate or offer to the Corporation any opportunity to participate or invest in, or any income or profits derived from, any Other Business engaged in by such Unlimited Party.

(d) The Corporation expressly authorizes and consents to the involvement of each Unlimited Party in any Other Business and expressly waives, to the fullest extent permitted by applicable law, any right to assert any claim that any such involvement breaches any duty owed to the Corporation or to any stockholder of the Corporation or to assert that such involvement constitutes a conflict of interest by such Unlimited Party with respect to the Corporation or any of its subsidiaries or any stockholder; and nothing contained herein shall limit, prohibit or restrict any designee serving on the Corporation’s Board of Directors from serving on the board of directors or other governing body or committee of any Other Companies.

As used in this Certificate of Incorporation, the term “**Affiliate**” shall have the meaning set forth in Rule 12b-2 promulgated under the Securities Exchange Act of 1934, as amended.

ARTICLE 11  
SECTION 203 OPT-OUT

Prior to any Change of Control, the Corporation expressly elects not to be governed by Section 203 of the General Corporation Law of the State of Delaware.

Immediately upon the occurrence of a Change of Control and without any action on the part of the Corporation or the stockholders, the Corporation shall be governed by Section 203 of the General Corporation Law of the State of Delaware.

ARTICLE 12  
AMENDMENTS

Except as may be expressly provided in this Certificate of Incorporation, the Corporation reserves the right at any time and from time to time to amend, alter, change or repeal any provision contained in this Certificate of Incorporation or a Preferred Stock Designation, and any other provisions authorized by the laws of the State of Delaware at the time in force may be added or inserted, in the manner now or hereafter prescribed herein or by applicable law, and all rights, preferences and privileges of whatsoever nature conferred upon stockholders, directors or any other persons whomsoever by and pursuant to this Certificate of Incorporation in its present form or as hereafter amended are granted subject to the right reserved in this Article 12; *provided, however*, that any amendment or repeal of Article 8 or 9 of this Certificate of Incorporation shall not adversely affect any right or protection existing thereunder in respect of any act or omission occurring prior to such amendment or repeal; and *provided further* that no Preferred Stock Designation shall be amended after the issuance of any share of the series of Preferred Stock created thereby, except in accordance with the terms of such Preferred Stock Designation and the requirements of applicable law.

Notwithstanding anything contained in this Certificate of Incorporation to the contrary, and in addition to approval by the Board of Directors, the affirmative vote of the holders of at least 80 percent of the voting power of the then outstanding Voting Stock, voting together as a single class, shall be required to amend, repeal or adopt any provision inconsistent with paragraph (a) of Article 5 or this second paragraph of Article 12. For the purposes of this Certificate of Incorporation, "**Voting Stock**" shall mean the outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors.

The effective time and date of this filing is [•], 2007, at [•] [a./p.m.] Eastern Time.

**IN WITNESS WHEREOF**, MSCI Inc. has caused this Certificate of Incorporation to be signed on this \_\_\_ day of \_\_\_\_\_, 2007 in its name.

**MSCI INC.**

By: \_\_\_\_\_  
Name:  
Title:

## AMENDED AND RESTATED BYLAWS

OF

MSCI INC.

(hereinafter called the "Corporation")

## ARTICLE 1

## OFFICES AND RECORDS

Section 1.01. *Delaware Office.* The principal office of the Corporation in the State of Delaware shall be located in the City of Wilmington, County of New Castle.

Section 1.02. *Other Offices.* The Corporation may have such other offices, either within or without the State of Delaware, as the Board of Directors may designate or as the business of the Corporation may from time to time require.

Section 1.03. *Books and Records.* The books and records of the Corporation may be kept at the Corporation's principal offices or at such other locations inside or outside the State of Delaware as may from time to time be designated by the Board of Directors.

## ARTICLE 2

## STOCKHOLDERS

Section 2.01. *Annual Meeting.* Except as otherwise provided by the Amended and Restated Certificate of Incorporation, the annual meeting of the stockholders of the Corporation shall be held at such date, place and time as may be fixed by resolution of the Board of Directors.

Section 2.02. *Special Meeting.* Subject to the rights of the holders of any series of preferred stock of the Corporation (the "**Preferred Stock**") or any other series or class of stock as set forth in the Amended and Restated Certificate of Incorporation, special meetings of the stockholders may be called at any time only by the Secretary at the direction of the Board of Directors pursuant to a resolution adopted by the Board of Directors.

Section 2.03. *Place of Meeting.* Except as otherwise provided by the Amended and Restated Certificate of Incorporation, the Board of Directors may designate the place of meeting for any meeting of the stockholders. If no designation is made by the Board of Directors, the place of meeting shall be the principal office of the Corporation, which will be [\_\_\_\_\_].

Section 2.04. *Notice of Meeting.* Except as otherwise provided by the Amended and Restated Certificate of Incorporation, a notice of meeting, stating the place, day and hour of the meeting and, in the case of special meetings, the purpose or purposes for which such special meeting is called, shall be prepared and delivered by the Corporation not less than ten (10) days nor more than sixty (60) days before the date of the meeting, either personally, or by mail, or, to the extent and in the manner permitted by applicable law, electronically, to each stockholder of record entitled to vote at such meeting. Such further notice shall be given as may be required by law. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting. Any previously scheduled meeting of the stockholders may be postponed, and (unless the Amended and Restated Certificate of Incorporation otherwise provides) any special meeting of the stockholders may be canceled, by resolution of the Board of Directors upon public notice given prior to the time previously scheduled for such meeting of stockholders.

Section 2.05. *Quorum and Adjournment.* Except as otherwise provided by law or by the Amended and Restated Certificate of Incorporation, the holders of a majority of the voting power of the outstanding shares of the Corporation entitled to vote generally in the election of directors (the "**Voting Stock**"), represented in person or by proxy, shall constitute a quorum at a meeting of stockholders, except that when specified business is to be voted on by a class or series voting as a class, the holders of a majority of the voting power of the shares of such class or series shall constitute a quorum for the transaction of such business. The Chairman of the Board or the holders of a majority of the voting power of the shares of Voting Stock so represented may adjourn the meeting from time to time, whether or not there is such a quorum (or, in the case of specified business to be voted on by a class or series, the Chairman of the Board or the holders of a majority of the voting power of the shares of such class or series so represented may adjourn the meeting with respect to such specified business). No notice of the time and place of adjourned meetings need be given except as required by law. The stockholders present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum.

Section 2.06. *Proxies.* At all meetings of stockholders, a stockholder may vote by proxy as may be permitted by law; *provided*, that no proxy shall be voted after three years from its date, unless the proxy provides for a longer period. Any proxy to be used at a meeting of stockholders must be filed with the Secretary of the Corporation or his or her representative at or before the time of the meeting.

Section 2.07. *Notice of Stockholder Business and Nominations.*

(a) Annual Meetings of Stockholders. (i) Except as provided by the Amended and Restated Certificate of Incorporation, nominations of persons for election to the Board of Directors of the Corporation and the proposal of business to be considered by the stockholders may be made at an annual meeting of stockholders only (A) pursuant to the Corporation's notice of meeting delivered pursuant to Section 2.04 of these Amended and Restated Bylaws (or any supplement thereto), (B) by or at the direction of the Board of Directors or (C) by any stockholder of the Corporation who is entitled to vote at the meeting, who complied with the notice procedures set forth in clauses (ii) and (iii) of this Section 2.07(a) and who was a stockholder of record on the date such notice is delivered to the Secretary of the Corporation.

(ii) For nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (C) of paragraph (a)(i) of this Section 2.07, the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation and, in the case of business other than nominations, such other business must otherwise be a proper matter for stockholder action. To be timely, a stockholder's notice shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the ninetieth day, nor earlier than the close of business on the one hundred twentieth day prior to the first anniversary of the preceding year's annual meeting; *provided, however,* that (1) if the date of the annual meeting is advanced by more than thirty days, or delayed by more than ninety days, from such anniversary date, notice by the stockholder to be timely must be so delivered not earlier than the close of business on the one hundred twentieth day prior to such annual meeting and not later than the close of business on the later of the ninetieth day prior to such annual meeting or the tenth day following the day on which public announcement of the date of such meeting is first made by the Corporation or (2) if no annual meeting was held in the preceding year, notice by the stockholders to be timely must be so delivered not later than the close of business on the tenth day following the day on which public announcement of the date of such meeting is first made by the Corporation. In no event shall the public announcement of an adjournment or postponement of an annual meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described in this Section 2.07(a). Such stockholder's notice shall set forth (A) as to each person whom the stockholder proposes to nominate for election as a director, all information

relating to such person that is required to be disclosed in solicitations of proxies for election of directors in an election contest, or is otherwise required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), including such person’s written consent to being named in the proxy statement as a nominee and to serving as a director if elected; (B) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and, if such business includes a proposal to amend the Amended and Restated Bylaws of the Corporation, the text of the proposed amendment), the reasons for conducting such business at the meeting, and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and (C) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (1) the name and address of such stockholder, as they appear on the Corporation’s books, and of such beneficial owner, (2) the class and number of shares of the Corporation that are owned beneficially and of record by such stockholder and such beneficial owner and (3) a representation as to whether the stockholder or the beneficial owner, if any, intends or is part of a group that intends to solicit proxies from stockholders in support of such proposal or nomination. The foregoing notice requirements of this Section 2.07 shall be deemed satisfied by a stockholder if the stockholder has notified the Corporation of the stockholder’s intention to present a proposal or nomination at an annual meeting in compliance with applicable rules and regulations promulgated under the Exchange Act and such stockholder’s proposal or nomination has been included in a proxy statement that has been prepared by the Corporation to solicit proxies for such annual meeting. The Corporation may require any proposed nominee to furnish such other information as it may reasonably require to determine the eligibility of such proposed nominee to serve as a director of the Corporation and the impact that such service would have on the ability of the Corporation to satisfy the requirements of laws, rules, regulations and listing standards applicable to the Corporation or its directors.

(iii) Notwithstanding anything in the second sentence of clause (ii) of this Section 2.07(a) to the contrary, if the number of directors to be elected to the Board of Directors of the Corporation is increased and the public announcement by the Corporation naming the nominees for the additional directorships is not made by the close of business on the one hundredth day prior to the first anniversary of the preceding year’s annual meeting, a stockholder’s notice required by this Section 2.07 shall also be considered timely, but only with respect to nominees for any new

directorships created by such increase, if it shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the tenth day following the day on which such public announcement is first made by the Corporation.

(b) Special Meetings of Stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting pursuant to Section 2.04 of these Amended and Restated Bylaws. Nominations of persons for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of meeting (i) by or at the direction of the Board of Directors or (ii) by any stockholder of the Corporation who is entitled to vote at the meeting, who complies with the notice procedures set forth in this Section 2.07 and who is a stockholder of record at the time such notice is delivered to the Secretary of the Corporation. If the Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board of Directors, any stockholder entitled to vote in such election may nominate such number of persons for election to such position(s) as are specified in the Corporation's notice of meeting, if the stockholder's notice as required by clause (ii) of Section 2.07(a) of these Amended and Restated Bylaws shall be delivered to the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the one hundred twentieth (120th) day prior to such special meeting and not later than the close of business on the later of the ninetieth (90th) day prior to such special meeting or the tenth (10th) day following the day on which public announcement of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting is first made by the Corporation. In no event shall the public announcement of an adjournment or postponement of a special meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above.

(c) General. (i) Only persons who are nominated in accordance with the procedures set forth in this Section 2.07 shall be eligible to be elected as directors at a meeting of stockholders and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this Section 2.07. Except as otherwise provided by law, the Amended and Restated Certificate of Incorporation or these Amended and Restated Bylaws, the Chairman of the Board shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made or proposed in accordance with the procedures set forth in this Section 2.07 and, if any proposed nomination or business is not in compliance with this Section 2.07, to declare that such defective proposal or nomination shall be disregarded.

(ii) For purposes of this Section 2.07, “**public announcement**” shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Sections 13, 14 or 15(d) of the Exchange Act.

(iii) Notwithstanding the foregoing provisions of this Section 2.07, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 2.07. Nothing in this Section 2.07 shall be deemed to affect any rights (a) of stockholders to request inclusion of proposals in the Corporation’s proxy statement pursuant to applicable rules and regulations under the Exchange Act or (b) of the holders of any series of Preferred Stock, or any other series or class of stock as set forth in the Amended and Restated Certificate of Incorporation, to elect directors pursuant to any applicable provisions of the Amended and Restated Certificate of Incorporation.

Section 2.08. *Procedure for Election of Directors; Voting.* Except as otherwise provided by law, the Amended and Restated Certificate of Incorporation or these Amended and Restated Bylaws, all matters other than the election of directors submitted to the stockholders at any meeting shall be decided by the affirmative vote of a majority of the voting power of the shares present in person or represented by proxy at the meeting and entitled to vote thereon, and where a separate vote by class is required, a majority of the voting power of the shares of that class present in person or represented by proxy at the meeting and entitled to vote thereon.

The vote on any matter, including the election of directors, shall be by written ballot. Each ballot shall be signed by the stockholder voting, or by such stockholder’s proxy, and shall state the number of shares voted.

Section 2.09. *Inspector of Elections; Opening and Closing of Polls; Conduct of Meetings.* (a) The Board of Directors by resolution shall appoint one or more inspectors, which inspector or inspectors may not be directors, officers or employees of the Corporation, to act at the meeting and make a written report thereof. One or more persons may be designated as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate has been appointed to act, or if all inspectors or alternates who have been appointed are unable to act, at a meeting of stockholders, the Chairman of the Board shall appoint one or more inspectors to act at the meeting. Each inspector, before discharging his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. The inspectors shall have the duties prescribed by the General Corporation Law of the State of Delaware.

(b) The Chairman of the Board shall fix and announce at the meeting the date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at the meeting.

(c) The Board of Directors may adopt by resolution such rules and regulations for the conduct of the meeting of stockholders as it shall deem appropriate. Except to the extent inconsistent with such rules and regulations as adopted by the Board of Directors, the person presiding over any meeting of stockholders shall have the right and authority to convene and to adjourn the meeting, to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such presiding person, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the presiding person of the meeting, may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present; (iii) limitations on attendance at or participation in the meeting to stockholders of record of the Corporation, their duly authorized and constituted proxies or such other persons as the presiding person of the meeting shall determine; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (v) limitations on the time allotted to questions or comments by participants. The presiding person at any meeting of stockholders, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall, if the facts warrant, determine and declare to the meeting that a matter or business was not properly brought before the meeting and if such presiding person should so determine, such presiding person shall so declare to the meeting and any such matter or business not properly brought before the meeting shall not be transacted or considered. Unless and to the extent determined by the Board of Directors or the person presiding over the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

Section 2.10. *Confidential Stockholder Voting.* All proxies, ballots and votes, in each case to the extent they disclose the specific vote of an identified stockholder, shall be tabulated and certified by an independent tabulator, inspector of elections and/or other independent parties and shall not be disclosed to any director, officer or employee of the Corporation; *provided*, that, notwithstanding the foregoing, any and all proxies, ballots and voting tabulations may be disclosed: (a) as necessary to meet legal requirements or to assist in the pursuit or defense of legal action; (b) if the Corporation concludes in good faith that a bona fide dispute exists as to the authenticity of one or more proxies, ballots or votes, or as to the accuracy of any tabulation of such proxies, ballots or votes; (c) in the event of a proxy, consent or other solicitation in opposition to the voting recommendation of the Board of Directors; or (d) if the stockholder requests, or consents to disclosure of the stockholder's vote or writes comments on the stockholder's proxy card or ballot.

ARTICLE 3  
BOARD OF DIRECTORS

Section 3.01. *General Powers.* The business and affairs of the Corporation shall be managed by or under the direction of its Board of Directors. In addition to the powers and authorities by these Amended and Restated Bylaws expressly conferred upon them, the Board of Directors may exercise all such powers of the Corporation and do all such lawful acts and things as are not by law or by the Amended and Restated Certificate of Incorporation or by these Amended and Restated Bylaws required to be exercised or done by the stockholders.

Section 3.02. *Number, Tenure and Qualifications.* (a) Subject to the rights of the holders of any series of Preferred Stock, or any other series or class of stock as set forth in the Amended and Restated Certificate of Incorporation, to elect directors ("**Preferred Stock Directors**") under specified circumstances, the number of directors shall be fixed from time to time exclusively pursuant to a resolution adopted by the Board of Directors, but shall consist of not less than three nor more than fifteen (15) directors (exclusive of Preferred Stock Directors). However, no decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

(b) Except as otherwise provided in this Section 3.02, each director shall be elected by the vote of the majority of the votes cast with respect to that director's election at any meeting for the election of directors at which a quorum is present, *provided* that if, as of the tenth (10th) day preceding the date the Corporation first mails its notice of meeting for such meeting to the stockholders of the Corporation, the number of nominees exceeds the number of directors to be elected (a "**Contested Election**"), the directors shall be elected by the vote of a plurality of the votes cast. For purposes of this Section 3.02, a majority of votes cast shall mean that the number of votes cast "for" a director's election exceeds the number of votes cast "against" that director's election (with "abstentions" and "broker nonvotes" not counted as a vote cast either "for" or "against" that director's election).

(c) In order for any incumbent director to become a nominee of the Board of Directors for further service on the Board of Directors, such person must submit an irrevocable resignation, *provided* that such resignation shall be effective if (i) that person shall not receive a majority of the votes cast in an election that is not a Contested Election, and (ii) the Board of Directors shall accept that resignation in accordance with the policies and procedures adopted by the Board of Directors for such purpose. In the event an incumbent director fails to receive a majority of the votes cast in an election that is not a Contested Election, the nominating and corporate governance committee of the Board of Directors, or such other committee designated by the Board of Directors pursuant to Section 3.09 of these Amended and Restated Bylaws, shall make a recommendation to the Board of Directors as to whether to accept or reject the resignation of such incumbent director, or whether other action should be taken. The Board of Directors shall act on the resignation, taking into account the committee's recommendation, and publicly disclose (by a press release and filing an appropriate disclosure with the Securities and Exchange Commission) its decision regarding the resignation and, if such resignation is rejected, the rationale behind the decision within ninety (90) days following certification of the election results.

(d) If the Board of Directors accepts a director's resignation pursuant to this Section 3.02, or if a nominee for director is not elected and the nominee is not an incumbent director, then the Board of Directors may fill the resulting vacancy pursuant to Article 7 of the Amended and Restated Certificate of Incorporation or may decrease the size of the Board of Directors pursuant to the provisions of this Section 3.02.

Section 3.03. *Regular Meetings.* The Board of Directors may, by resolution, provide the time and place for the holding of regular meetings without other notice than such resolution. Unless otherwise determined by the Board of Directors, the Secretary or an Assistant Secretary of the Corporation shall act as secretary at all regular meetings of the Board of Directors and in the absence of the Secretary and any Assistant Secretary, a temporary secretary shall be appointed by the chairman of the meeting.

Section 3.04. *Special Meetings.* Special meetings of the Board of Directors shall be called at the request of the Chairman of the Board, or a majority of the Board of Directors. The person or persons authorized to call special meetings of the Board of Directors may fix the place and time of the meetings. Unless otherwise determined by the Board of Directors, the Secretary or an Assistant Secretary of the Corporation shall act as secretary at all special meetings of the Board of Directors and in the absence of the Secretary and any Assistant Secretary, a temporary secretary shall be appointed by the chairman of the meeting.

Section 3.05. *Notice.* Notice of any special meeting shall be mailed to each director at his or her business or residence not later than three days before the day on which such meeting is to be held or shall be sent to either of such places by telegraph or facsimile or other electronic transmission, or be communicated to each director personally or by telephone (including without limitation to a representative of the director or to the director's electronic voice message system), not later than the day before such day of meeting. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice of such meeting, except for amendments to these Amended and Restated Bylaws as provided pursuant to Section 8.01 hereof. A meeting may be held at any time without notice if all the directors are present (except as otherwise provided by law) or if those not present waive notice of the meeting in accordance with Section 6.04 hereof, either before or after such meeting.

Section 3.06. *Action Without Meeting.* Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting if all members of the Board or committee, as the case may be, consent thereto in writing or by electronic transmission and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board or committee.

Section 3.07. *Conference Telephone Meetings.* Members of the Board of Directors, or any committee thereof, may participate in a meeting of the Board of Directors or such committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at such meeting.

Section 3.08. *Quorum.* At all meetings of the Board of Directors, a majority of the total number of directors specified in the resolution pursuant to Section 3.02 of these Amended and Restated Bylaws which the Corporation would have if there were no vacancies, shall constitute a quorum for the transaction of business. At all meetings of the committees of the Board of Directors, the presence of 50% or more of the total number of members (assuming no vacancies) shall constitute a quorum. The act of the directors or committee members present at any meeting at which there is a quorum shall be the act of the Board of Directors or such committee, as the case may be, except as otherwise provided in the Delaware General Corporation Law, the Amended and Restated Certificate of Incorporation or these Amended and Restated Bylaws. If a quorum shall not be present at any meeting of the Board of Directors or any committee, a majority of the directors or members, as the case may be, present thereat may adjourn the meeting from time to time without further notice other than announcement at the meeting.

Section 3.09. *Committees.* (a) The Corporation shall have three standing committees: the nominating and corporate governance committee, the audit committee and the compensation committee. Each such standing committee shall consist of such number of directors of the Corporation and shall have such powers and authority as shall be determined by resolution of the Board of Directors.

(b) In addition, the Board of Directors may designate one or more additional committees, with each such committee consisting of such number of directors of the Corporation and having such powers and authority as shall be determined by resolution of the Board of Directors.

(c) All acts done by any committee within the scope of its powers and authority pursuant to these Amended and Restated Bylaws and the resolutions adopted by the Board of Directors in accordance with the terms hereof shall be deemed to be, and may be certified as being, done or conferred under authority of the Board of Directors. The Secretary or any Assistant Secretary is empowered to certify that any resolution duly adopted by any such committee is binding upon the Corporation and to execute and deliver such certifications from time to time as may be necessary or proper to the conduct of the business of the Corporation.

(d) Regular meetings of committees shall be held at such times as may be determined by resolution of the Board of Directors or the committee in question and no notice shall be required for any regular meeting other than such resolution. A special meeting of any committee shall be called by resolution of the Board of Directors, or by the Secretary or an Assistant Secretary upon the request of the chairman or a majority of the members of such committee. Notice of special meetings shall be given to each member of the committee in the same manner as that provided for in Section 3.05 of these Amended and Restated Bylaws.

Section 3.10. *Committee Members.* (a) Each member of any committee of the Board of Directors shall hold office until such member's successor is elected and has qualified, unless such member sooner dies, resigns or is removed.

(b) The Board of Directors may designate one or more directors as alternate members of any committee to fill any vacancy on a committee and to fill a vacant chairmanship of a committee, occurring as a result of a member or chairman leaving the committee, whether through death, resignation, removal or otherwise.

Section 3.11. *Committee Secretary.* Each committee may elect a secretary for such committee. Unless otherwise determined by the committee, the Secretary or an Assistant Secretary of the Corporation shall act as secretary at all regular meetings and special meetings of the committee, and in the absence of the Secretary or any Assistant Secretary a temporary secretary shall be appointed by the chairman of the meeting.

Section 3.12. *Compensation.* The directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors and may be paid compensation as director, lead director or chairman of any committee. Members of special or standing committees may be allowed compensation and payment of expenses.

ARTICLE 4  
CHAIRMAN AND OFFICERS

Section 4.01. *General.* The Board shall elect a Chairman of the Board; a Chief Executive Officer; a President; a Chief Financial Officer; a General Counsel; a Secretary; one or more Assistant Secretaries; a Treasurer; one or more Assistant Treasurers; and such other officers as in the judgment of the Board of Directors may be necessary or desirable. All officers chosen by the Board of Directors shall have such powers and duties as generally pertain to their respective offices, subject to the specific provisions of this Article 4. Such officers shall also have powers and duties as from time to time may be conferred by the Board of Directors or any committee thereof. Any number of offices may be held by the same person, unless otherwise prohibited by law, the Amended and Restated Certificate of Incorporation or these Amended and Restated Bylaws. The officers of the Corporation need not be stockholders or directors of the Corporation, except that the Chief Executive Officer shall be a member of the Board of Directors.

Section 4.02. *Election and Term of Office.* The elected officers of the Corporation shall be elected annually by the Board of Directors at the regular meeting of the Board of Directors held after each annual meeting of the stockholders. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as convenient. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he shall resign or be removed.

Section 4.03. *Chairman of the Board.* The Chairman of the Board may be, but need not be, a person other than the Chief Executive Officer of the Corporation. The Chairman of the Board may be, but need not be, an officer or employee of the Corporation. The Chairman of the Board, if present, shall preside at all meetings of the Board of Directors and at all meetings of the stockholders of the Corporation. In the absence or disability of the Chairman of the Board, the duties of the Chairman of the Board shall be performed and the authority of the Chairman of the Board may be exercised by a director designated for this purpose by the Board of Directors.

Section 4.04. *Chief Executive Officer.* The Chief Executive Officer shall be a member of the Board of Directors. The Chief Executive Officer shall be the chief executive officer of the Corporation and shall supervise, coordinate and manage the Corporation's business and activities and supervise, coordinate and manage its operating expenses and capital allocation, shall have general authority to exercise all the powers necessary for the Chief Executive Officer of the Corporation and shall perform such other duties and have such other powers as may be prescribed by the Board of Directors or these Amended and Restated Bylaws, all in accordance with basic policies as established by and subject to the oversight of the Board of Directors.

Section 4.05. *President.* The President shall have general authority to exercise all the powers necessary for the President of the Corporation and shall perform such other duties and have such other powers as may be prescribed by the Board of Directors or these Amended and Restated Bylaws, all in accordance with basic policies as established by and subject to the oversight of the Board of Directors and the Chief Executive Officer.

Section 4.06. *Chief Financial Officer.* The Chief Financial Officer shall have responsibility for the financial affairs of the Corporation and shall exercise supervisory responsibility for the performance of the duties of the Treasurer. The Chief Financial Officer shall perform such other duties and have such other powers as may be prescribed by the Board of Directors or these Amended and Restated Bylaws, all in accordance with basic policies as established by and subject to the oversight of the Board of Directors and the Chief Executive Officer.

Section 4.07. *General Counsel.* The General Counsel shall have responsibility for the legal affairs of the Corporation. The General Counsel shall perform such other duties and have such other powers as may be prescribed by the Board of Directors or these Amended and Restated Bylaws, all in accordance with basic policies as established by and subject to the oversight of the Board of Directors and the Chief Executive Officer.

Section 4.08. *Vacancies.* A newly created office and a vacancy in any office because of death, resignation, or removal may be filled by the Board of Directors for the unexpired portion of the terms at any meeting of the Board of Directors.

ARTICLE 5  
STOCK CERTIFICATES AND TRANSFERS

Section 5.01. *Stock Certificates and Transfers.* (a) The interest of each stockholder of the Corporation shall be evidenced by certificates for shares of stock in such form as the appropriate officers of the Corporation may from time to time prescribe; *provided* that the Board of Directors may provide by resolution or resolutions that all or some of all classes or series of the stock of the Corporation shall be represented by uncertificated shares. Every holder of stock represented by certificates shall be entitled to have a certificate signed by, or in the name of the Corporation by the Chairman of the Board, the Chief Executive Officer, the President or any Vice President and by the Treasurer or an Assistant Treasurer or the Secretary or an Assistant Secretary of the Corporation representing the number of shares registered in certificate form. Except as otherwise expressly provided by law, the rights and obligations of the holders of uncertificated stock and the rights and obligations of the holders of certificates representing stock of the same class and series shall be identical.

(b) Any or all of the signatures on the certificates (if any) representing the stock of the Corporation may be facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he were such officer, transfer agent or registrar at the date of issue.

(c) The shares of the stock of the Corporation represented by certificates shall be transferred on the books of the Corporation by the holder thereof in person or by his attorney, upon surrender for cancellation of certificates for the same number of shares, with an assignment and power of transfer endorsed thereon or attached thereto, duly executed, with such proof of the authenticity of the signature as the Corporation or its agents may reasonably require. Upon receipt of proper transfer instructions from the registered owner of uncertificated shares such uncertificated shares shall be canceled and issuance of new equivalent uncertificated shares or certificated shares (if authorized) shall be made to the person entitled thereto and the transaction shall be recorded upon the books of the Corporation. Within a reasonable time after the issuance or transfer of uncertificated stock, the Corporation shall send to the registered owner thereof a written notice containing the information required to be set forth or stated on certificates pursuant to the Delaware General Corporation Law or, unless otherwise provided by the Delaware General Corporation Law, a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

Section 5.02. *Lost, Stolen or Destroyed Certificates.* No certificate for shares of stock in the Corporation shall be issued in place of any certificate alleged to have been lost, destroyed or stolen, except on production of such evidence of such loss, destruction or theft and on delivery to the Corporation of a bond of indemnity in such amount, upon such terms and secured by such surety, as the Board of Directors or its designee may in its or his discretion require.

ARTICLE 6  
MISCELLANEOUS PROVISIONS

Section 6.01. *Fiscal Year.* The fiscal year of the Corporation shall be as specified by the Board of Directors.

Section 6.02. *Dividends.* The Board of Directors may from time to time declare, and the Corporation may pay, dividends on its outstanding shares in the manner and upon the terms and conditions provided by law and its Amended and Restated Certificate of Incorporation.

Section 6.03. *Seal.* The corporate seal shall have thereon the name of the Corporation and shall be in such form as may be approved from time to time by the Board of Directors or by any officer authorized to do so by the Board of Directors.

Section 6.04. *Waiver of Notice.* Whenever any notice is required to be given to any stockholder or director of the Corporation under the provisions of the General Corporation Law of the State of Delaware, a waiver thereof in writing, signed by the person or persons entitled to such notice, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any annual or special meeting of the stockholders or any meeting of the Board of Directors or committee thereof need be specified in any waiver of notice of such meeting.

Section 6.05. *Audits.* The accounts, books and records of the Corporation shall be audited upon the conclusion of each fiscal year by an independent certified public accountant.

Section 6.06. *Resignations.* Any director or any officer, whether elected or appointed, may resign at any time upon notice of such resignation to the Corporation.

Section 6.07. *Indemnification and Insurance.* (a) Each person who was or is made a party or is threatened to be made a party to or is involved in any manner in any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative (hereinafter a “**proceeding**”), by reason of the fact that he or she or a person of whom he or she is the legal representative is or was a director or officer of the Corporation or a

director or officer of a Subsidiary (as defined below), shall be indemnified and held harmless by the Corporation to the fullest extent permitted from time to time by the General Corporation Law of the State of Delaware as the same exists or may hereafter be amended (but, if permitted by applicable law, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than said law permitted the Corporation to provide prior to such amendment) or any other applicable laws as presently or hereafter in effect, and such indemnification shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of his or her heirs, executors and administrators; *provided* that the Corporation shall indemnify any such person seeking indemnification in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the Board of Directors or is a proceeding to enforce such person's claim to indemnification pursuant to the rights granted by this Section 6.07. The Corporation shall pay the expenses incurred by such person in defending any such proceeding in advance of its final disposition upon receipt (unless the Corporation upon authorization of the Board of Directors waives such requirement to the extent permitted by applicable law) of an undertaking by or on behalf of such person to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by the Corporation as authorized in this Section 6.07 or otherwise.

(b) The indemnification and the advancement of expenses incurred in defending a proceeding prior to its final disposition provided by, or granted pursuant to, this Section 6.07 shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, provision of the Amended and Restated Certificate of Incorporation, other provision of these Amended and Restated Bylaws, agreement, vote of stockholders or Disinterested Directors (as defined below) or otherwise. No repeal, modification or amendment of, or adoption of any provision inconsistent with, this Section 6.07, nor to the fullest extent permitted by applicable law, any modification of law, shall adversely affect any right or protection of any person granted pursuant hereto existing at, or with respect to any events that occurred prior to, the time of such repeal, amendment, adoption or modification.

(c) The Corporation may maintain insurance, at its expense, to protect itself and any person who is or was a director, officer, partner, member, employee or agent of the Corporation or a Subsidiary or of another corporation, partnership, limited liability company, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the General Corporation Law of the State of Delaware.

(d) The Corporation may, to the extent authorized from time to time by the Board of Directors, grant rights to indemnification, and rights to be paid by the Corporation the expenses incurred in defending any proceeding in advance of its final disposition, to any person who is or was an employee or agent (other than a director or officer) of the Corporation or a Subsidiary and to any person who is or was serving at the request of the Corporation or a Subsidiary as a director, officer, partner, member, employee or agent of another corporation, partnership, limited liability company, joint venture, trust or other enterprise, including service with respect to employee benefit plans maintained or sponsored by the Corporation or a Subsidiary, to the fullest extent of the provisions of this Section 6.07 with respect to the indemnification and advancement of expenses of directors and officers of the Corporation.

(e) If any provision or provisions of this Section 6.07 shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (1) the validity, the legality and enforceability of the remaining provisions of this Section 6.07 (including, without limitation, each portion of any paragraph or clause of this Section 6.07 containing any such provision held to be invalid, illegal or unenforceable, that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby; and (2) to the fullest extent possible, the provisions of this Section 6.07 (including, without limitation, each such portion of any paragraph of this Section 6.07 containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

(f) For purposes of these Amended and Restated Bylaws:

(1) “**Disinterested Director**” means a director of the Corporation who is not and was not a party to the proceeding or matter in respect of which indemnification is sought by the claimant.

(2) “**Subsidiary**” means any corporation, trust, limited liability company or other non-corporate business enterprise in which the Corporation directly or indirectly holds ownership interests representing (A) more than 50% of the voting power of all outstanding ownership interests of such entity (other than directors’ qualifying shares, in the case of a corporation) or (B) the right to receive more than 50% of the net assets of such entity available for distribution to the holders of outstanding ownership interests upon a liquidation or dissolution of such entity.

(g) Any notice, request, or other communication required or permitted to be given to the Corporation under this Section 6.07 shall be in writing and either delivered in person or sent by telecopy, telex, telegram, overnight mail or courier service, or certified or registered mail, postage prepaid, return receipt requested, to the Secretary or the General Counsel or any designee of the Secretary or the General Counsel and shall be effective only upon receipt by such officer or designee.

ARTICLE 7  
CONTRACTS, PROXIES, ETC.

Section 7.01. *Contracts.* Except as otherwise required by law, the Amended and Restated Certificate of Incorporation or these Amended and Restated Bylaws, any contracts or other instruments may be executed and delivered in the name and on the behalf of the Corporation by such officer or officers of the Corporation as the Board of Directors may from time to time direct. Such authority may be general or confined to specific instances as the Board may determine. Subject to the control and direction of the Board of Directors, the Chief Executive Officer, the President, the Chief Financial Officer, the General Counsel and the Treasurer may enter into, execute, deliver and amend bonds, promissory notes, contracts, agreements, deeds, leases, guarantees, loans, commitments, obligations, liabilities and other instruments to be made or executed for or on behalf of the Corporation. Subject to any restrictions imposed by the Board of Directors, such officers of the Corporation may delegate such powers to others under his or her jurisdiction, it being understood, however, that any such delegation of power shall not relieve such officer of responsibility with respect to the exercise of such delegated power.

Section 7.02. *Proxies.* Unless otherwise provided by resolution adopted by the Board of Directors, the Chief Executive Officer or the President may from time to time appoint an attorney or attorneys or agent or agents of the Corporation, in the name and behalf of the Corporation, to cast the votes which the Corporation may be entitled to cast as the holder of stock or other securities in any other corporation or entity, any of whose stock or other securities may be held by the Corporation, at meetings of the holders of the stock or other securities of such other corporation or entity, or to consent in writing, in the name of the Corporation as such holder, to any action by such other corporation or entity, and may instruct the person or persons so appointed as to the manner of casting such vote or giving such consent, and may execute or cause to be executed in the name and on behalf of the Corporation and under its corporate seal or otherwise, all such written proxies or other instruments as he may deem necessary or proper in the premises.

ARTICLE 8  
AMENDMENTS

Section 8.01. *Amendments.* These Amended and Restated Bylaws may be altered, amended or repealed, in whole or in part, or new Amended and Restated Bylaws may be adopted by the stockholders or by the Board of Directors at any meeting thereof; *provided*, that notice of such alteration, amendment, repeal or adoption of new Amended and Restated Bylaws is contained in the notice of such meeting of stockholders or in the notice of such meeting of the Board of Directors and, in the latter case, such notice is given not less than twenty-four hours prior to the meeting. Unless a higher percentage is required by the Amended and Restated Certificate of Incorporation as to any matter which is the subject of these Amended and Restated Bylaws, all such amendments must be approved by either the holders of eighty percent (80%) of the voting power of the then outstanding Voting Stock or by a majority of the Board of Directors.

Incorporated under the Laws of the State of Delaware



MSCI Inc.

Total Authorized Issue

\_\_\_\_ Shares \$0.01 Par Value  
Class A Common Stock

See Reverse for  
the full text of the  
Articles of Incorporation

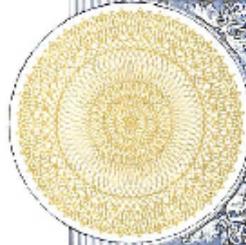
This is to Certify that \_\_\_\_\_

is the owner of

\_\_\_\_\_ fully paid and non-assessable  
shares of Class A Common Stock of the above corporation transferable only on the books of the  
Corporation by the holder thereof in person or by a duly authorized Attorney upon surrender of  
this Certificate properly endorsed.

Witness, the seal of the Corporation and the signatures of its duly authorized officers.

Dated \_\_\_\_\_



Secretary

President

CORP. NY NY 10108

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM – as tenants in common

UNIF GIFT MIN ACT -

\_\_\_\_\_ CUSTODIAN \_\_\_\_\_

(Cust)

(Minor)

TEN ENT – as tenants by the entireties

Under Uniform Gifts to Minors

Act \_\_\_\_\_

JT TEN – as joint tenants with right of survivorship and not as tenants in common

(State)

Additional abbreviations may also be used though not in the above list.

**For value received \_\_\_\_\_ hereby sell, assign and transfer unto**

Please insert social security or other identifying number of assignee

\_\_\_\_\_  
(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS INCLUDING POSTAL ZIP CODE OF ASSIGNEE)  
\_\_\_\_\_

\_\_\_\_\_  
**Shares of Class A Common Stock represented by the within Certificate, and do hereby irrevocably constitute and appoint**

\_\_\_\_\_  
**Attorney to transfer the said Shares of Class A Common Stock on the books of the within named Corporation with full power of substitution in the premises.**

**Dated** \_\_\_\_\_

**In presence of** \_\_\_\_\_

\_\_\_\_\_

**CONFIDENTIAL****MORGAN STANLEY CAPITAL INTERNATIONAL****INDEX LICENSE AGREEMENT FOR FUNDS**

AGREEMENT, dated as of March 18, 2000, by and between MORGAN STANLEY CAPITAL INTERNATIONAL INC. ("MSCI"), a Delaware corporation, having an office at 1585 Broadway, New York, NY 10036, and Barclays Global Investors, N.A. ("Licensee"), having an office at 45 Fremont Street, San Francisco, CA 94105.

WHEREAS, MSCI owns rights to, and engages in a variety of business activities in connection with, certain stock indexes and the proprietary data contained therein, among which are the indexes listed in Exhibit A, annexed hereto and made a part hereof (such indexes and data contained therein are hereinafter referred to as the "Indexes");

WHEREAS, MSCI calculates, maintains and publishes the Indexes;

WHEREAS, MSCI uses in commerce and owns trade name, trademark and service mark rights to the designations Morgan Stanley Capital International<sup>®</sup>; MSCI<sup>®</sup>; Morgan Stanley Capital International Perspective<sup>®</sup>; MSCIP; and EAFE<sup>®</sup> (such rights are hereinafter individually and collectively referred to as the "Marks");

WHEREAS, Licensee wishes to use the Indexes as the basis of the exchange traded funds described in Exhibit B, annexed hereto and made a part hereof (the "Funds");

WHEREAS, Licensee wishes to use the Indexes and the Marks to sponsor, issue, establish, organize, structure, operate, manage, offer, sell, market, promote, write, list, trade, exchange and distribute (collectively "sponsor") the Funds and to make disclosure about the Funds under applicable laws, rules and regulations in order to indicate that MSCI is the source of the Indexes; and

WHEREAS, Licensee wishes to obtain MSCI's authorization to use the Indexes and refer to the Indexes and the Marks in connection with the Funds pursuant to the terms and conditions hereinafter set forth.

NOW, THEREFORE, the parties hereto agree as follows:

1. Grant of License

(a) Subject to the terms and conditions of this Agreement, MSCI grants to Licensee a non-transferable, non-exclusive, license (i) to use one or more of the Indexes as the basis, or as a component, of the Funds (in accordance with the restrictions set forth in Exhibit B) to sponsor the Funds; and (ii) to use and refer to the Indexes and the Marks (in accordance with the restrictions set forth in Exhibit B) in the names of the Funds; to sponsor the Funds; and to make such disclosure about the Funds as Licensee deems necessary, electronically or otherwise, under any applicable laws, rules or regulations. Licensee shall not disseminate electronically or in any other fashion to

any third party any information related to the Indexes that is designated as "Confidential" or "Proprietary" by MSCI (except as provided in Paragraph 8(c) below).

(b) Licensee shall have a right to sublicense any or all of the rights granted hereunder to (i) any affiliate of Licensee; provided such affiliate will not have the power to further sublicense those rights to any third parties other than to the Funds and (ii) any of the Funds; provided the Funds will not have the further power to sublicense those rights to any third parties. Licensee shall require any such sublicensee to comply with Licensee's obligations under this Agreement and shall remain obligated under the terms of the Agreement with respect to any actions taken by the sublicensee pursuant to any sublicense. No further license shall be required from MSCI of any securities exchange, stock market or other entity to list and trade the Funds in accordance with the terms and conditions set forth herein.

(c) Unless otherwise agreed by the parties, Licensee will initiate appropriate regulatory filings with respect to each of the Funds within 90 days after execution of this Agreement or after execution of an amendment to this Agreement. Within 30 days after receipt of any required regulatory approval for each of the Funds, Licensee will launch such Funds; provided, however, MSCI will not unreasonable withhold its consent to delay the launching of the Funds for a tiered roll-out. If (i) Licensee shall fail to initiate any filings for any Fund within said 90 day period, (ii) Licensee shall fail to launch any Fund within said specified periods, or (iii) if MSCI reasonably determines, after consultation with Licensee, that regulatory approval for any such Fund is not likely to be received within a reasonable time period (taking into account such factors as past experiences for similar regulatory approvals), MSCI may, as its exclusive remedy under this Agreement and upon written notice to Licensee, terminate the license granted hereunder with respect to the particular Index underlying such Fund. Licensee shall have no obligation to launch any Fund based on an Index. After a Fund is launched, Licensee may terminate the Fund or the Fund's use of an Index at any time.

## 2. Term

The term of the license granted hereunder shall commence on March 18, 2000 and shall continue for 5 years.

## 3. License Fees

Licensee shall pay MSCI a quarterly license fee with respect to each Index (listed on Exhibit A) which is used by Licensee as the basis for, or a component of, a Fund (listed on Exhibit B) under Licensee's management. Commencing on March 18 and continuing through December 31, 2000, the license fee shall be \*\*\*\*\*. Commencing on January 1, 2001 and continuing through the remainder of the term, the license fee shall be \*\*\*\*\*. The license fee shall be based on each Fund's average daily net assets during the relevant quarter. The license fees shall be calculated by Licensee and shall be paid in arrears to MSCI by the fifteenth day of the following quarter. Such license fees shall be accompanied by a statement from Licensee stating that the license fees paid to MSCI are accurate.

Licensee shall maintain detailed and accurate records with respect to the assets of the Funds and its payments to MSCI hereunder. Licensee shall, upon written request by MSCI, provide

[\*\*\*\*] Represents material which has been redacted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment pursuant to Rule 406 under the Securities Act of 1933, as amended.

reasonable access to its records with respect to the assets of the Funds during normal business hours, to an independent accounting organization chosen and compensated by MSCI, for purposes of a confirming audit with respect to such payments. Licensee shall promptly pay any under-reported fees determined by such audit. If such audit determines that license fees in excess of \*\*\*\*\* of reported license fees were not reported during any of the four previously reported quarters, then the Licensee shall also pay for the reasonable costs of such audit.

#### 4. Termination

(a) At any time during the term of this Agreement, either party may give the other party thirty days' prior written notice of termination if the terminating party believes in good faith that material damage or harm is occurring to the reputation or goodwill of the terminating party by reason of the other's continued performance hereunder, and such notice shall be effective on the date of such termination unless the other party shall correct the condition causing such damage or harm within the notice period.

(b) In the case of breach of any of the material terms and conditions of this Agreement by either party, the non-breaching party may terminate this Agreement by giving thirty days' prior written notice of its intent to terminate, and such notice shall be effective on the date of such termination (at the option of the non-breaching party) unless the breaching party shall correct such breach within the notice period or, if the breach is not capable of being cured within such thirty day period, unless the breaching party has undertaken to correct such breach and diligently prosecutes such correction until completion; provided that such cure period shall not exceed ninety days in total.

(c) MSCI shall have the right, in its sole discretion, to cease compilation and publication of any of the Indexes and, in the event that any of the Indexes is discontinued, to terminate the Agreement with respect to that index only, if MSCI does not offer a replacement or substitute Index. In the event that MSCI intends to discontinue any index, MSCI shall exercise reasonable efforts to give Licensee as much advance written notice prior to such discontinuance as practicable, which notice shall specify whether a replacement or substitute index will be available. In no event, however, will such advance written notice be less than sixty days. Licensee shall have the option hereunder within ninety days after receiving such written notice from MSCI to notify MSCI in writing of its intent to use the replacement index under the terms of this Agreement.

(d) Licensee may terminate this Agreement with respect to a specific Index or Indexes upon sixty days written notice to MSCI if Licensee is informed of the final adoption of any legislation or regulation that materially impairs Licensee's ability to offer, sell, distribute, write, market or promote such Index-related fund or funds.

(e) MSCI may terminate this Agreement with respect to a specific Index or Indexes if MSCI is informed of the final adoption of any legislation or regulation that materially impairs MSCI's ability to license and provide the license rights set forth herein with respect to such Indexes under this Agreement. MSCI will use reasonable efforts to give Licensee as much advance written notice as possible.

[\*\*\*\*\*] Represents material which has been redacted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment pursuant to Rule 406 under the Securities Act of 1933, as amended.

5. Rights Upon Termination

Upon termination of this Agreement, Licensee shall cease to use the Indexes and cease referring to the Indexes and the Marks with the Funds.

6. Fund Promotion

(a) Licensee shall use its best efforts to protect the goodwill and reputation of MSCI in connections with its use of the Indexes and the Marks under this Agreement. Licensee shall submit to MSCI for its preview and approval all of the Funds advertisements, brochures, and promotional and information material (other than price quotations for a Fund) (collectively "Informational Materials") relating to or referring to MSCI, the Indexes or the Marks. MSCI's approval shall be confined solely to the use of or description of MSCI, the Marks, and the Indexes and shall not be unreasonably withheld or delayed by MSCI. It is MSCI's goal to respond to any such requests for approval within four business days.

(b) MSCI is not obligated to engage in any marketing or promotional activities in connection with the Funds or in making any representation or statement to investors or prospective investors in connection with the promotion by Licensee of the Funds.

(c) Licensee acknowledges and agrees that MSCI, in granting the permission contained in this Agreement, does not express or imply any approval of the Funds or of Licensee and Licensee further agrees not to make any statement which expresses or implies that MSCI approves, endorses or consents to the promotion, marketing, and arrangement by Licensee of the Funds or that MSCI makes any judgment or expresses any opinion in respect of the Licensee.

(d) Licensee agrees to promote the Funds based on the MSCI Index family as an integral part of the iShares family. Licensee agrees that Funds based on the MSCI index family will be afforded an equitable portion of Licensee's overall promotion, marketing and advertising budget for iShares in comparison to other index fund families. As used herein, iShares means the iShares Trust, a Delaware Business Trust that was established in December 16, 1999.

7. Protection Of Value Of License

(a) Licensee shall cooperate reasonably with MSCI in the maintenance of all MSCI common law and statutory rights in the Indexes and the Marks, including copyrights and other proprietary rights, and shall take such acts and execute such instruments as are reasonably necessary and appropriate to such purposes, including the use by the Licensee of the following notice when referring to the Indexes or the Marks in any advertisement, offering circular, prospectus, brochure, or promotional or informational material relating to the Funds:

The [Name of particular index] index is the exclusive property of MSCI. Morgan Stanley Capital International and MSCI are service marks of MSCI and has been licensed for use by [Name of Licensee].

or such similar language as may be approved in advance by MSCI.

(b) Licensee shall not refer to the names of the Indexes in any manner which might cause confusion as to MSCI's responsibility for preparing and disseminating the Indexes or as to the identity of Licensee and its relationship to the Funds.

#### 8. Proprietary Rights

(a) Licensee acknowledges that the Indexes are selected, arranged and prepared by MSCI through the application of methods and standards of judgment used and developed through the expenditure of considerable work, time and money by MSCI. Licensee also acknowledges that the Indexes and the Marks are the exclusive property of MSCI, and the Indexes and their compilation and composition and changes therein are in the control and discretion of MSCI.

(b) MSCI reserves all rights with respect to the Indexes and the Marks except those expressly licensed to Licensee hereunder.

(c) Each party shall treat as confidential and shall not disclose or transmit to any third party any confidential and proprietary information of the other party, including the terms of this Agreement or (in the case of MSCI) Informational Materials submitted to MSCI pursuant to paragraph 6(a) hereof, provided that the documentation or other written materials containing such information are designated as "Confidential" or "Proprietary" by the providing party and such information is not available generally to the public or otherwise available to the receiving party from a source other than the providing party. Notwithstanding the foregoing, Licensee or its affiliates may publish daily through the National Securities Clearing Corporation for distribution to NSCC members only and through Bloomberg L.P., or some other organization mutually agreed upon by the parties hereto, by electronic or in other means, each Fund's daily market basket (including each Fund's constituents and weights); provided, however, that MSCI may withdraw any such distribution approval in the event that such distribution materially adversely affects other MSCI business initiatives. In addition, if requested or required (by interrogatories, requests for information or documents, subpoena, or other process) either party may reveal such information if such information to be disclosed is (i) approved in writing by the other party for disclosure or (ii) required by law (in the opinion of counsel), regulatory agency or court order to be disclosed by a party, provided prior written notice of such required disclosure is given to the other party. In addition, except with respect to disclosure made pursuant to (i) and (ii) in the immediately preceding sentence, each party shall treat as confidential the terms of this Agreement. The provisions of this paragraph shall survive any termination of this Agreement for five (5) years from disclosure by either party to the other party of the last such confidential and proprietary information.

#### 9. Ownership and Protection of Composite Marks

(a) Each Fund based on an Index will be named or identified as the "iShares MSCI XXX (the "Composite Mark"), with the XXX representing the MSCI index (after the transition from the WEBS to iShares). Licensee will use MSCI approved Marks in the Composite Mark.

(b) MSCI acknowledges and agrees that the iShares Marks are and will remain the exclusive property of Licensee, and that all goodwill that attaches to the iShares and other Licensee Marks as a result their use in the Composite Marks will redound to the exclusive benefit of Licensee. Licensee acknowledges and agrees that the MSCI Marks are and will remain the exclusive property

of MSCI, and that all goodwill that attaches to the MSCI Marks as a result of their use by Licensee including, without limitation, in the Composite Marks, will redound to the exclusive benefit of MSCI.

(c) The Composite Marks will be owned neither by Licensee nor MSCI. Licensee will have the exclusive right to use the Composite Marks. Neither party will register or apply for registration of the Composite Marks.

(d) Upon termination of this Agreement, neither party will have ownership of or the right to use the Composite Marks. However, the parties' respective ownership rights will persist in the constituent MSCI Marks and iShares and Licensee Marks that together comprise the Composite Marks.

10. Warranties; Disclaimers

(a) MSCI represents and warrants that MSCI is the owner of rights granted to Licensee herein and that use of the Indexes as provided herein shall not infringe any trademark, service mark, copyright, other proprietary right, or contractual right of any person not a party to this Agreement.

(b) Licensee agrees expressly to be bound itself by and furthermore to include all of the following disclaimers and limitations in the prospectus and any contract(s) relating to the Funds and upon request to furnish a copy (copies) thereof to MSCI:

This fund is not sponsored, endorsed, sold or promoted by MSCI or any affiliate of MSCI. Neither MSCI nor any other party makes any representation or warranty, express or implied, to the owners of this fund or any member of the public regarding the advisability of investing in funds generally or in this fund particularly or the ability of the [ ] index to track general stock market performance. MSCI is the licensor of certain trademarks, service marks and trade names of MSCI and of the [ ] index which is determined, composed and calculated by MSCI without regard to the issuer of this fund or this fund. MSCI has no obligation to take the needs of the issuer of this fund or the owners of this fund into consideration in determining, composing or calculating the [ ] index. MSCI is not responsible for and has not participated in the determination of the timing of, prices at, or quantities of this fund to be issued or in the determination or calculation of the equation by which this fund is redeemable for cash. Neither MSCI nor any other party has any obligation or liability to owners of this fund in connection with the administration, marketing or trading of this fund.

ALTHOUGH MSCI SHALL OBTAIN INFORMATION FOR INCLUSION IN OR FOR USE IN THE CALCULATION OF THE INDEXES FROM SOURCES WHICH MSCI CONSIDERS RELIABLE, NEITHER MSCI NOR ANY OTHER PARTY GUARANTEES THE ACCURACY AND/OR THE COMPLETENESS OF THE INDEXES OR ANY DATA INCLUDED THEREIN. NEITHER MSCI NOR ANY OTHER PARTY MAKES ANY WARRANTY, EXPRESS OR IMPLIED, AS TO RESULTS TO BE OBTAINED BY LICENSEE, LICENSEE'S

CUSTOMERS AND COUNTERPARTIES, OWNERS OF THE FUNDS, OR ANY OTHER PERSON OR ENTITY FROM THE USE OF THE INDEXES OR ANY DATA INCLUDED THEREIN IN CONNECTION WITH THE RIGHTS LICENSED HEREUNDER OR FOR ANY OTHER USE. NEITHER MSCSI NOR ANY OTHER PARTY MAKES ANY EXPRESS OR IMPLIED WARRANTIES, AND MSCSI HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE INDEXES OR ANY DATA INCLUDED THEREIN. WITHOUT LIMITING ANY OF THE FOREGOING, IN NO EVENT SHALL MSCSI OR ANY OTHER PARTY HAVE ANY LIABILITY FOR ANY DIRECT, INDIRECT, SPECIAL, PUNITIVE, CONSEQUENTIAL OR ANY OTHER DAMAGES (INCLUDING LOST PROFITS) EVEN IF NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGES.

(c) Licensee agrees expressly to be bound itself by and furthermore to include all of the following disclaimers and limitations in any Informational Materials (other than the prospectus) relating to the Funds and upon request to furnish a copy (copies) thereof to MSCSI:

MSCSI, Morgan Stanley Capital International and MSCSI Index are service marks of Morgan Stanley Capital International and have been licensed for use by Barclays Global Investors, N.A. The Funds are not sponsored, endorsed, sold or promoted by Morgan Stanley Capital International. Nor does Morgan Stanley Capital International make any representation regarding the advisability of investing in any the Funds.

(d) MSCSI represents and warrants that it has the authority to enter into this Agreement according to its terms and that its performance does not violate any laws, regulations or agreements applicable to it.

(e) Licensee represents and warrants that it has the authority to enter into this Agreement and that its performance does not violate any applicable laws, regulations or agreements, including but not limited to banking, commodities and securities laws.

(e) Neither party shall have any liability for lost profits or consequential damages arising out of this Agreement.

(f) The provisions of this Section 9 shall survive any termination of this Agreement.

11. Indemnification

(a) Licensee shall indemnify and hold harmless MSCSI, its parent, subsidiaries, affiliates, and their officers, directors, employees and agents against any and all judgments, damages, costs or losses of any kind (including reasonable attorneys' and experts' fees) as a result of claims or actions brought by third parties against MSCSI which arise from any act or omission of Licensee which constitutes a breach of this Agreement or is in any manner related to the Funds (except with respect to any claim or action alleging that Licensee's or Funds' use of the Indexes and Marks violates or infringes any trademark, service mark, copyright or other proprietary right of

any person not a party to this Agreement); provided, however, that (i) MSCI notifies Licensee promptly of any such claim or action, and (ii) Licensee shall have no liability to MSCI if such judgments, damages, costs or losses are attributable to any breach of the Agreement, negligent act or omission by MSCI, its parent, affiliates, subsidiaries or any of their employees or agents. Licensee shall bear all expenses in connection with the defense and/or settlement of any such claim or action. MSCI shall have the right, at its own expense, to participate in the defense of any claim or action against which it is indemnified hereunder; provided, however, it shall have no right to control the defense, consent to judgment, or agree to settle any such claim or action, without the written consent of Licensee. Licensee, in the defense of any such claim, except with the written consent of MSCI, shall not consent to entry of any judgment or enter into any settlement which (i) does not include, as an unconditional term, the grant by the claimant to MSCI of a release of all liabilities in respect of such claims or (ii) otherwise adversely affects the rights of MSCI. This provision shall survive the termination of this Agreement.

(b) MSCI shall indemnify and hold harmless Licensee, its parent, subsidiaries, affiliates, and their officers, directors, employees and agents against any and all judgments, damages, costs or losses of any kind (including reasonable attorneys' and experts' fees) as a result of claims or actions brought by third parties against Licensee alleging that Licensee's or Funds' use of the Indexes and Marks violates or infringes any trademark, service mark, copyright or other proprietary right of any person not a party to this Agreement; provided, however, that (i) Licensee notifies MSCI promptly of any such claim or action, and (ii) MSCI shall have no liability to Licensee if such judgments, damages, costs or losses are attributable to any breach of the Agreement, negligent act or omission by Licensee, its parent, affiliates, subsidiaries or any of their employees or agents. MSCI shall bear all expenses in connection with the defense and/or settlement of any such claim or action. Licensee shall have the right, at its own expense, to participate in the defense of any claim or action against which it is indemnified hereunder; provided, however, it shall have no right to control the defense, consent to judgment, or agree to settle any such claim or action, without the written consent of MSCI. MSCI, in the defense of any such claim, except with the written consent of Licensee, shall not consent to entry of any judgment or enter into any settlement which (i) does not include, as an unconditional term, the grant by the claimant to Licensee of a release of all liabilities in respect of such claims or (ii) otherwise adversely affects the rights of Licensee other than with respect to the rights granted licensee under this Agreement. This provision shall survive the termination of this Agreement.

#### 12. Force Majeure

Neither MSCI nor Licensee shall bear responsibility or liability for any losses arising out of any delay in or interruptions of their respective performance of their obligations under this Agreement due to any act of God, act of governmental authority, act of the public enemy, or due to war, alien invasion, riot, fire, flood, civil commotion, insurrection, labor difficulty (including, without limitation, any strike, or other work stoppage or slowdown), or other cause beyond the reasonable control of the party so affected, provided that such party had exercised due diligence as the circumstances reasonably required.

13. Other Matters

(a) This Agreement is solely and exclusively between the parties as now constituted and, unless otherwise provided, shall not be assigned or transferred by either party, without prior written consent of the other party, which shall not be unreasonably withheld, and any attempt to so assign or transfer this Agreement without such written consent shall be null and void. Notwithstanding the foregoing, this Agreement may be assigned by MSCI to its parent or any of its subsidiaries or affiliates without the consent of Licensee.

(b) This Agreement constitutes the entire agreement of the parties hereto with respect to its subject matter and may be amended or modified only by a writing signed by duly authorized officers of both parties. This Agreement supersedes all previous Agreements between the parties with respect to the subject matter of this Agreement. There are no oral or written collateral representations, agreements, or understandings except as provided herein.

(c) No breach, default, or threatened breach of this Agreement by either party shall relieve the other party of its obligations or liabilities under this Agreement with respect to the protection of the property or proprietary nature of any property which is the subject of this Agreement.

(d) All notices and other communications under this Agreement shall be (i) in writing, (ii) delivered by hand or by registered or certified mail, return receipt requested, to the addresses set forth below or such addresses as either party shall specify by a written notice to the other and (iii) deemed given upon receipt.

(e) This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of New York, without regard to its conflict of laws principles.

Notice to MSCI:

Morgan Stanley Capital International Inc.  
1221 Avenue of the Americas  
New York, New York 10020  
Attn: Publisher

and

Morgan Stanley Capital International Inc.  
1221 Avenue of the Americas  
New York, New York 10020  
Attn: Legal Department – Technology Unit

Notice to Licensee:

Barclays Global Investors, N.A.  
45 Fremont Street  
San Francisco, CA 94105  
Attn: Fund Administration

and

Barclays Global Investors, N.A.  
45 Fremont Street  
San Francisco, CA 94105  
Attn. Legal Department

(f) This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which together shall constitute on and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first set forth above.

MORGAN STANLEY CAPITAL INTERNATIONAL INC.

BARCLAYS GLOBAL INVESTORS

By: /s/ Henry Fernandez  
Name: Henry Fernandez  
Title: President and CEO

By: /s/ Lee Kranefuss  
Name: Lee Kranefuss  
Title: Managing Director

By: /s/ Michael Latham  
Name: Michael Latham  
Title: Managing Director

Date: May 18, 2000

Date: \_\_\_\_\_

EXHIBIT A

List of the MSCI Indexes:

- Australia Index
- Austria Index
- Belgium Index
- Brazil Index
- Canada Index
- France Index
- Germany Index
- \*\*\*\*
- Hong Kong Index
- \*\*\*\*
- Italy Index
- Japan Index
- Malaysia Index
- Mexico Index
- Netherlands Index
- \*\*\*\*
- Singapore Index
- South Africa Index
- Korea Index
- Spain Index
- Sweden Index
- Switzerland Index
- Taiwan Index
- \*\*\*\*
- \*\*\*\*
- UK Index
- \*\*\*\*

- EMU Index
- EAFE Index
- \*\*\*\*
- \*\*\*\*
- \*\*\*\*
- \*\*\*\*
- \*\*\*\*

\*\*\*\* as may be amended from time to time, by MSCI.

[\*\*\*\*] Represents material which has been redacted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment pursuant to Rule 406 under the Securities Act of 1933, as amended.

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EXHIBIT B

Description of the Funds

The Funds are to be issued, sold and traded on a public basis in accordance with the U.S. federal securities laws.

The Funds shall be limited to: Registered open-end investment companies, whose shares may be listed and traded on national securities exchanges or stock markets.

The Funds shall be exchange traded. They must be listed and traded on an U.S. domiciled stock exchange only.

The Funds shall not include Unit Investment Trusts, futures, options and other derivatives.

Licensee or an affiliate of Licensee is the asset manager the Funds.

**AMENDMENT**

Date of Amendment: \_\_\_\_\_

AMENDMENT to the Index License Agreement for Funds (the "Agreement"), dated as of March 18, 2000 and as subsequently amended, by and between Morgan Stanley Capital International Inc. ("MSCI") and Barclays Global Investors, N.A ("Licensee"), as amended.

1. Exhibit A of the Agreement is hereby amended to add the following additional indices:

- \*\*\*\*
- \*\*\*\*
- \*\*\*\*
- \*\*\*\*
- \*\*\*\*
- \*\*\*\*
- \*\*\*\*
- \*\*\*\*
- \*\*\*\*
- \*\*\*\*
- \*\*\*\*
- \*\*\*\*
- \*\*\*\*
- \*\*\*\*
- \*\*\*\*
- \*\*\*\*
- \*\*\*\*
- \*\*\*\*
- \*\*\*\*

2. This Amendment is intended to amend and operate in conjunction with the Agreement and together this Amendment and the Agreement constitute the complete and exclusive statement of the agreement between the parties and supersede in full all prior proposals and understandings, oral or written, relating to the subject matter hereof. No right or license of any kind is granted to Licensee except as expressly provided in the Agreement and this Amendment.

3. This Amendment shall be governed by, and construed in accordance with, the laws of the State of New York without regard to its conflict or choice of laws principles.

BARCLAYS GLOBAL INVESTORS, N.A.

By /s/ D. Wojnar  
 Name D. WOJNAR  
 (printed)

MORGAN STANLEY CAPITAL INTERNATIONAL INC.

By /s/ Dennis Sidlauskas  
 Name Dennis Sidlauskas  
 (printed)  
 Executive Director

BARCLAYS GLOBAL INVESTORS, N.A.

By /s/ Mike Latham  
 Name Mike Latham  
 (printed)

[\*\*\*\*] Represents material which has been redacted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment pursuant to Rule 406 under the Securities Act of 1933, as amended.

MSCI

ADL\_00074

1221 Avenue of the Americas  
New York, New York 10020  
(212) 762-5800

June 21, 2001

Barclays Global Investors, N.A.  
45 Fremont Street  
San Francisco, California 94105  
Attn: Fund Administration

Re: Letter Agreement To Amend MSCI-BGI Fund Index License Agreement

Dear Sir:

This letter agreement ("Letter Agreement") will amend the Index License Agreement For Funds, between Morgan Stanley Capital International Inc. ("MSCI") and Barclays Global Investors, N.A. ("Licensee"), dated March, 18, 2000 (the "License Agreement" or "Agreement"), as follows:

1. In Exhibit A to the License Agreement, add the following MSCI Indexes:

\*\*\*\*

MSCI Pacific Free ex-Japan

\*\*\*\*

2. The parties acknowledge that MSCI is in the process of revising its calculation methodology for these indexes and has published new Provisional Indexes for the entire MSCI index family. This Letter Agreement shall apply to the MSCI indexes using both the current calculation methodology and any revised methodology, including without limitation, a free-float calculation methodology.
3. The License Agreement will remain in full force and effect as expressly amended herein. This Letter Agreement along with the License Agreement, as amended, constitutes the entire agreement and understanding of the parties with respect to the subject matter thereof.

[\*\*\*\*] Represents material which has been redacted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment pursuant to Rule 406 under the Securities Act of 1933, as amended.

Please indicate your acceptance of this Letter Agreement by signing below.

Sincerely,

/s/ Simon Midgen  
Simon Midgen

BARCLAYS GLOBAL INVESTORS, N.A.

By: /s/ Bruce Lavine  
Print Name/Title: Bruce Lavine, CFO Individual Investor  
Date Signed: 6/28/01

BARCLAYS GLOBAL INVESTORS, N.A.

By: /s/ James G. Polisson  
Print Name/Title: James G. Polisson, Managing Director  
Date Signed: June 28, 2001

**ADDENDUM  
TO THE INDEX LICENSE AGREEMENT FOR FUNDS  
BY AND BETWEEN  
MORGAN STANLEY CAPITAL INTERNATIONAL INC.  
AND  
BARCLAYS GLOBAL INVESTORS, N.A.**

This Addendum, effective as of 9/18/02, 2002 (“Effective Date”), supplements and amends the Index License Agreement For Funds between **Morgan Stanley Capital International Inc.** (“MSCI”) and **Barclays Global Investors, N.A.** (“BGI”) dated March 18, 2000 (the “Agreement”). Capitalized terms not otherwise defined herein shall have the meaning set forth in the Agreement.

**1. Grant of License**

BGI hereby grants MSCI a worldwide license to license third parties: on a non-exclusive basis (a) to sponsor option contracts or other derivative securities products written on, linked to or otherwise based on the Funds (“Options”); (b) to use and refer to the iShares Mark as part of the Composite Mark to promote, market, sell and otherwise sponsor the Options; and (c) to make such disclosures about the Options as necessary under any applicable law, rules and regulations.

**2. Fee Splitting/Payment**

In the event that MSCI receives \*\*\*\*\* for the granting of a license \*\*\*\*\*, MSCI shall, within sixty (60) days following the close of each calendar quarter \*\*\*\*\* of all such \*\*\*\*\* in such calendar quarter.

**3. Full Disclosure**

MSCI shall disclose to BGI the terms of any agreement with any third party granted pursuant to this Addendum. The foregoing obligation shall be met by MSCI providing BGI with a fully executed copy of any such agreement.

**4. Confidentiality**

MSCI agrees to keep confidential the terms of this Addendum, including the fact that it is being negotiated and the substance of the negotiations, except that MSCI may disclose verbally to its third party licensees only the existence of \*\*\*\*\*.

**5. Ownership and Protection of Composite Marks**

The provisions of Section 9 of the Agreement are hereby incorporated herein by reference.

[\*\*\*\*\*] Represents material which has been redacted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment pursuant to Rule 406 under the Securities Act of 1933, as amended.

## AMENDMENT

Date of Amendment: December 3, 2004

AMENDMENT to the Index License Agreement for Funds, by and between Morgan Stanley Capital International Inc. ("MSCI") and Barclays Global Investors, N.A. ("Licensee"), dated as of March 18, 2000 (the "US ETF Agreement"). Capitalized terms used herein but not otherwise defined herein shall have the meanings ascribed in the US ETF Agreement.

In consideration of the promises and the mutual covenants and agreements contained herein, MSCI and Licensee hereby agree to amend the US ETF Agreement as follows:

1. **Term.** The term of the US ETF Agreement is hereby renewed for an additional \*\*\*\* commencing on March 18, 2005. Thereafter, the US ETF Agreement shall renew for successive \*\*\*\* unless either party provides written notice to the other of its intent not to renew ninety days prior to the end of the then-current term.
2. **License Fees.** The license fees shall be calculated as set forth herein commencing on January 1, 2005, notwithstanding anything to the contrary in the Agreement or any Schedule or Exhibit thereto. Section 3 of the US ETF Agreement is hereby deleted in its entirety and replaced as follows:
  - (a) Licensee shall pay MSCI a \*\*\*\* license fee with respect to the use of each Index (as listed on Exhibit A) as the basis for, or a component of, a Fund (described on Exhibit B). The \*\*\*\* license fee shall be \*\*\*\* during the applicable \*\*\*\*, subject to a \*\*\*\* as follows:

****	****
First ****	****
From ****	****
From ****	****
From ****	****
Greater than ****	****

(b) \*\*\*\*

(c) The license fee shall be paid in arrears to MSCI by the fifteenth day of the following \*\*\*\* and shall be accompanied by a statement from Licensee stating that such fees are accurate. Any license fees or any other amounts due hereunder that are not timely paid shall accrue interest at the rate of \*\*\*\* per month or the maximum amount permitted by law, whichever is less, which interest charges shall begin accruing on the relevant due date and shall continue to accrue until such license fees and all other amounts due hereunder are paid in full.

[\*\*\*\*] Represents material which has been redacted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment pursuant to Rule 406 under the Securities Act of 1933, as amended.

(d) Licensee shall maintain detailed and accurate records with respect to the assets of the Funds and any of Licensee's payments to MSCI hereunder. During the term of the US ETF Agreement and for a period of three (3) years after its termination, Licensee, upon written request by MSCI, shall provide access to such records during normal business hours to MSCI and/or an independent accounting organization chosen and compensated by MSCI. Licensee shall promptly pay any underreported license fees and all other amounts due hereunder determined by such audit \*\*\*\*\*, or the \*\*\*\*\* whichever is less, for the period of time during which such amount was owed and unpaid. If such audit reveals an underpayment in excess of \*\*\*\*\* of the amount due hereunder, then Licensee shall also pay for the reasonable cost of such audit.

(e) Licensee will promptly pay \*\*\*\*\* arising as a result of the Agreement, other than \*\*\*\*\*.

(f) For the avoidance of doubt, the \*\*\*\*\* license fees that are \*\*\*\*\* be calculated progressively. For example, the \*\*\*\*\* would be subject to the \*\*\*\*\* license fee formula set forth above and the \*\*\*\*\* license fee formula set forth above.

(g) Notwithstanding anything to the contrary contained herein, if any Fund does not have \*\*\*\*\*, the licensee fee for such Fund shall equal \*\*\*\*\*.

3. Disclosure.

(a) Licensee \*\*\*\*\* the following information at the following frequencies on its web sites, \*\*\*\*\* and in its printed publications regarding \*\*\*\*\*, provided that

(i) each \*\*\*\*\* containing such information prominently indicates or contains a prominent link to a page that indicates and (ii) each \*\*\*\*\* containing such information prominently indicates, that no reader of such information may use such information to manage or sponsor a fund or other security, investment vehicle or financial product:

Information regarding \*\*\*\*\*:

<u>INFORMATION</u>	<u>FREQUENCY</u>
*****	*****
*****	*****
*****	*****
*****	*****
Number of *****	*****
Financial *****	*****
*****	*****
*****	*****

Information regarding \*\*\*\*\*:

<u>INFORMATION</u>	<u>FREQUENCY</u>
*****	*****
*****	*****
Number of *****	*****
Financial *****	*****
*****	*****
*****	*****

\*\*\*\*\* shall distribute such \*\*\*\*\* only if they are accompanied by \*\*\*\*\* prohibition on redistribution and certain uses in a form agreed \*\*\*\*\*

[\*\*\*\*\*] Represents material which has been redacted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment pursuant to Rule 406 under the Securities Act of 1933, as amended.

\* \*\*\*\*

\*\* \*\*\*\*

(b) Licensee \*\*\*\* on Licensee's websites, \*\*\*\*, or through \*\*\*\*, the \*\*\*\* for Licensee's Funds; provided that (i) the data is published in a format that may not \*\*\*\*, (ii) all persons accessing such data via \*\*\*\* must affirmatively assent \*\*\*\*, and (iii) MSCI may terminate this right on reasonable prior written notice to Licensee if MSCI determines in its good faith reasonable discretion that \*\*\*\*.

(c) Notwithstanding anything to the contrary in the Agreement or any Schedule or Exhibit thereto, Licensee may also distribute \*\*\*\*; provided that Licensee has \*\*\*\* pursuant to which each \*\*\*\* expressly agrees \*\*\*\*, (ii) not to redistribute \*\*\*\* and (iii) to disclosure of its name to MSCI. MSCI may withdraw any such distribution approval with respect \*\*\*\* at any time on written notice to Licensee.

4. **Derivatives.** For the avoidance of doubt, the Agreement or any Schedule or Exhibit thereto (i) does not give Licensee the right to create any futures, options or other derivatives based on any Index and (ii) does not give MSCI or Licensee the right to create any futures, options or other derivatives of any Fund without the prior written consent of the other party hereto. Notwithstanding the foregoing, Licensee may hold futures, options or other derivative securities as constituent holdings of any Fund.
5. **Miscellaneous.** This Amendment is intended to amend and operate in conjunction with the US ETF Agreement and together this Amendment and the US ETF Agreement constitute the complete and exclusive statement of the agreement between the parties and supersede in full all prior proposals and understandings, oral or written, relating to the subject matter hereof. To the extent that any terms of this Amendment conflict with any terms of the US ETF Agreement, the terms of this Amendment will control. No right or license of any kind is granted to Licensee except as expressly provided in the US ETF Agreement and this Amendment This Amendment shall be governed by, and construed in accordance with, the laws of the State of New York without regard to its conflict or choice of laws principles.

BARCLAYS GLOBAL INVESTORS, N.A.

MORGAN STANLEY CAPITAL INTERNATIONAL INC.

By /s/ Francis Enderle  
Name Francis Enderle  
Title Managing Director

By /s/ Allen Heery  
Name Allen Heery  
Title Executive Director

BARCLAYS GLOBAL INVESTORS, N.A.

By /s/ Michael Latham  
Name Michael Latham  
Title Managing Director

[\*\*\*\*] Represents material which has been redacted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment pursuant to Rule 406 under the Securities Act of 1933, as amended.

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## EXHIBIT 1

\*\*\*\*

The MSCI Index names are trademarks of Morgan Stanley Capital International and have been licensed for use by Barclays Global Investors. The product is not sponsored, endorsed, sold, or promoted by Morgan Stanley Capital International and Morgan Stanley Capital International makes no representation regarding this product, the information provided herein or the advisability of investing in any product or security. Neither SEI nor BGI, nor any of their affiliates, are affiliated with Morgan Stanley Capital International. This information is provided for internal informational purposes only and may not be redistributed or reproduced, used in connection with any non-MSCI indices or used in connection with managing or sponsoring any fund or other security, investment vehicle or financial product.

[\*\*\*\*] Represents material which has been redacted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment pursuant to Rule 406 under the Securities Act of 1933, as amended.

**AMENDMENT**

Date of Amendment: 5/1/05

AMENDMENT to the Index License Agreement for Funds (the "Agreement"), dated as of March 18, 2000, by and between Morgan Stanley Capital International Inc. ("MSCI") and Barclays Global Investors, N.A ("Licensee"), as amended.

1. Exhibit A of the Agreement is hereby amended to add the following additional indices:

- MSCI EAFE Value Index
- MSCI EAFE Growth Index
- \*\*\*\*

2. The notice and disclaimer set forth in Section 10(b) of the Agreement is hereby deleted in its entirety and replaced with the following:

THIS FUND IS NOT SPONSORED, ENDORSED, SOLD OR PROMOTED BY MORGAN STANLEY CAPITAL INTERNATIONAL INC. ("MSCI"), ANY OF ITS AFFILIATES, ANY OF ITS INFORMATION PROVIDERS OR ANY OTHER THIRD PARTY INVOLVED IN, OR RELATED TO, COMPILING, COMPUTING OR CREATING ANY MSCI INDEX (COLLECTIVELY, THE "MSCI PARTIES"). THE MSCI INDEXES ARE THE EXCLUSIVE PROPERTY OF MSCI. MSCI AND THE MSCI INDEX NAMES ARE SERVICE MARK(S) OF MSCI OR ITS AFFILIATES AND HAVE BEEN LICENSED FOR USE FOR CERTAIN PURPOSES BY [BGI]. NONE OF THE MSCI PARTIES MAKES ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, TO THE ISSUER OR OWNERS OF THIS FUND OR ANY OTHER PERSON OR ENTITY REGARDING THE ADVISABILITY OF INVESTING IN FUNDS GENERALLY OR IN THIS FUND PARTICULARLY OR THE ABILITY OF ANY MSCI INDEX TO TRACK CORRESPONDING STOCK MARKET PERFORMANCE. MSCI OR ITS AFFILIATES ARE THE LICENSORS OF CERTAIN TRADEMARKS, SERVICE MARKS AND TRADE NAMES AND OF THE MSCI INDEXES WHICH ARE DETERMINED, COMPOSED AND CALCULATED BY MSCI WITHOUT REGARD TO THIS FUND OR THE ISSUER OR OWNERS OF THIS FUND OR ANY OTHER PERSON OR ENTITY. NONE OF THE MSCI PARTIES HAS ANY OBLIGATION TO TAKE THE NEEDS OF THE ISSUER OR OWNERS OF THIS FUND OR ANY OTHER PERSON OR ENTITY INTO CONSIDERATION IN DETERMINING, COMPOSING OR CALCULATING THE MSCI INDEXES. NONE OF THE MSCI PARTIES IS RESPONSIBLE FOR OR HAS PARTICIPATED IN THE DETERMINATION OF THE TIMING OF, PRICES AT, OR QUANTITIES OF THIS FUND TO BE ISSUED OR IN THE DETERMINATION OR CALCULATION OF THE EQUATION BY OR THE CONSIDERATION INTO WHICH THIS FUND IS REDEEMABLE. FURTHER, NONE OF THE MSCI PARTIES HAS ANY OBLIGATION OR LIABILITY TO THE ISSUER OR OWNERS OF THIS FUND OR ANY OTHER PERSON OR ENTITY IN CONNECTION WITH THE ADMINISTRATION, MARKETING OR OFFERING OF THIS FUND.

ALTHOUGH MSCI SHALL OBTAIN INFORMATION FOR INCLUSION IN OR FOR USE IN THE CALCULATION OF THE MSCI INDEXES FROM SOURCES THAT MSCI CONSIDERS RELIABLE, NONE OF THE MSCI PARTIES WARRANTS OR GUARANTEES THE ORIGINALITY, ACCURACY AND/OR THE COMPLETENESS OF ANY MSCI INDEX OR ANY DATA INCLUDED THEREIN. NONE OF THE MSCI PARTIES MAKES ANY WARRANTY, EXPRESS OR IMPLIED, AS TO RESULTS TO BE OBTAINED BY THE ISSUER OF THE FUND, OWNERS OF THE FUND, OR ANY OTHER PERSON OR ENTITY, FROM THE USE OF ANY MSCI INDEX OR ANY DATA INCLUDED THEREIN. NONE OF THE MSCI PARTIES SHALL HAVE ANY LIABILITY FOR ANY ERRORS, OMISSIONS OR INTERRUPTIONS OF OR IN CONNECTION WITH ANY MSCI INDEX OR ANY DATA INCLUDED THEREIN. FURTHER, NONE OF THE MSCI PARTIES MAKES ANY EXPRESS OR IMPLIED WARRANTIES OF ANY KIND, AND THE MSCI PARTIES HEREBY EXPRESSLY DISCLAIM ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO EACH MSCI INDEX AND ANY DATA INCLUDED THEREIN. WITHOUT LIMITING ANY OF THE FOREGOING, IN NO EVENT SHALL ANY OF THE MSCI PARTIES HAVE ANY LIABILITY FOR ANY DIRECT, INDIRECT, SPECIAL, PUNITIVE, CONSEQUENTIAL OR ANY OTHER DAMAGES (INCLUDING LOST PROFITS) EVEN IF NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGES.

[\*\*\*\*] Represents material which has been redacted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment pursuant to Rule 406 under the Securities Act of 1933, as amended.

3. This Amendment is intended to amend and operate in conjunction with the Agreement and together this Amendment and the Agreement constitute the complete and exclusive statement of the agreement between the parties and supersede in full all prior proposals and understandings, oral or written, relating to the subject matter hereof. No right or license of any kind is granted to Licensee except as expressly provided in the Agreement and this Amendment.
4. This Amendment shall be governed by, and construed in accordance with, the laws of the State of New York without regard to its conflict or choice of laws principles.

BARCLAYS GLOBAL INVESTORS, N.A.

MORGAN STANLEY CAPITAL INTERNATIONAL INC.

By  /s/ Michael Latham  
Name Michael Latham

By  /s/ Allen Heery  
Name Allen Heery  
CFO

**AMENDMENT**

Effective Date as of July 1, 2006

AMENDMENT to the Index License Agreement for Funds (the "Agreement"), dated as of March 18, 2000, by and between Morgan Stanley Capital International Inc. ("MSCI") and Barclays Global Investors, N.A. ("Licensee"), as previously amended.

1. Term: Section 1 of the Amendment dated as of December 3, 2004 to the Agreement is hereby deleted. The term of the Agreement is extended until \*\*\*\*\*, unless earlier terminated as provided therein or herein. Thereafter, the Agreement shall renew for successive one-year periods unless either party provides written notice to the other of its intent not to renew at least ninety (90) days prior to the end of the then-current term.
2. Fees: Section 2 of the Amendment dated as of December 3, 2004 to the Agreement is hereby deleted. The license fees shall be calculated and payable on a calendar quarterly basis as follows commencing as of July 1, 2006:
  - a. \*\*\*\*\*: Licensee shall pay MSCI a \*\*\*\*\* with respect to the use of the MSCI Standard International Equity Index \*\*\*\*\* as the basis for, or a component of, any passively managed fund. The \*\*\*\*\* license fee shall equal:
    - \*\*\*\*\* multiplied by \*\*\*\*\* subject to a \*\*\*\*\*.

To the extent that the license fees payable to MSCI for a passively managed Fund based on \*\*\*\*\* such licensee fees payable to MSCI, when expressed as \*\*\*\*\* the applicable period \*\*\*\*\* such Fund \*\*\*\*\* when expressed as \*\*\*\*\* for such \*\*\*\*\*.
  - b. OTHER MSCI INDICES: For use of all other MSCI Indices licensed under the Agreement, Licensee shall pay MSCI a \*\*\*\*\* license fee with respect to the use of each such Index as the basis for, or a component of a passively managed Fund. The \*\*\*\*\* license fee shall be calculated as \*\*\*\*\* during the applicable \*\*\*\*\* per Fund and a \*\*\*\*\* as follows:

*****	*****
First *****	*****
From *****	*****
From *****	*****
From *****	*****
Greater than *****	*****

[\*\*\*\*\*] Represents material which has been redacted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment pursuant to Rule 406 under the Securities Act of 1933, as amended.

- c. \*\*\*\*
- d. Payment: The license fees shall be paid in arrears to MSCI by the fifteenth day of the following quarter and shall be accompanied by a statement from Licensee stating that such fees are accurate. Any license fees or any other amounts due hereunder that are not timely paid shall accrue interest at the rate of \*\*\*\* or the maximum amount permitted by law, whichever is less, which interest charges shall begin accruing on the relevant due date and shall continue to accrue until such license fees and all other amounts due hereunder are paid in full.
- e. Records: Licensee shall maintain detailed and accurate records with respect to the assets of the Funds and any of Licensee's payment to MSCI hereunder. During the term of the Agreement and for a period of \*\*\*\* after its termination, Licensee, upon written request by MSCI, shall provide access to such records during normal business hours to MSCI and/or an independent accounting organization, chosen and compensated by MSCI. Licensee shall promptly pay any underreported license fees and all other amounts due hereunder determined by such audit \*\*\*\*, whichever is less, for the period of time during which such amount was owed and unpaid. If such audit reveals an underpayment in excess \*\*\*\* of the amount due hereunder, then Licensee shall also pay for the reasonable cost of such audit.
- f. Taxes: Licensee will promptly pay \*\*\*\* arising as a result of the Agreement, other than \*\*\*\*.

3. Additional Licensees:

- a. If MSCI grants \*\*\*\* after the effective date of this Amendment a \*\*\*\* the basis for any passively managed fund to be listed by the licensee for trading on an exchange \*\*\*\*, then the license fees payable hereunder for the relevant Index shall \*\*\*\*. For purposes of clarity and by way of illustration only, the parties acknowledge that \*\*\*\* licensed after the date hereof \*\*\*\* to serve as the \*\*\*\*, only the license fees \*\*\*\*.
- b. Licensee acknowledges that prior to the effective date of this Amendment MSCI has \*\*\*\* confidential basis to \*\*\*\*.  
The \*\*\*\* which the parties agree is not subject to Section 3(a) above. If the \*\*\*\* MSCI shall inform Licensee and the parties shall negotiate in good faith to consider whether \*\*\*\* (as defined in Section 5 below) payable hereunder for Licensee's Funds based on \*\*\*\* is appropriate. Any \*\*\*\* would consider the \*\*\*\* Licensee's ability to continue paying \*\*\*\*. MSCI and BGI will jointly consider any impact of the \*\*\*\* over a reasonable period of time (not less than one year), including factors such as \*\*\*\*.
- c. Licenses granted by MSCI \*\*\*\* based on customized versions, or sub-indices (e.g., sector indices or market-cap sub-indices) or aggregated indices (e.g., regional indices), of

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\*\*\*\* are not subject to Section 3(a) above. If the name of any such \*\*\*\* based on a \*\*\*\* index includes the \*\*\*\* it shall use a \*\*\*\* index name (e.g., \*\*\*\*).

Further, for purposes of clarity and by way of illustration only the parties acknowledge that licenses granted by MSCI \*\*\*\* (x) as a benchmark for actively managed funds or (y) as the basis for, or a component of, funds that aim to provide a \*\*\*\* (e.g., \*\*\*\*) or an \*\*\*\* (e.g., \*\*\*\*) linked to such Indices, are also \*\*\*\*.

- d. If Licensee \*\*\*\* that \*\*\*\* may license the relevant \*\*\*\* without the \*\*\*\* otherwise required by Section 3(a) above.

The determination of whether an index \*\*\*\* an MSCI Index shall be based on the information available \*\*\*\* based on such other index. To determine whether an index \*\*\*\* with \*\*\*\* the parties agree that factors to be considered should include the following:

- i. \*\*\*\*
- ii. \*\*\*\*
- iii. \*\*\*\*

For purposes of illustration, the parties agree that as of today (x) a \*\*\*\*, (y) a \*\*\*\*, and (z) a \*\*\*\*.

Additionally, the parties agree that \*\*\*\* (e.g., a third party \*\*\*\*) do not \*\*\*\* *provided* that the \*\*\*\* is reflected in the index name and the Fund name.

4. Index Definitions:

For the avoidance of doubt, the parties acknowledge that the \*\*\*\* are defined as the then-current versions of such indices as part of the MSCI Standard International Equity Index Series, and the Agreement and this Amendment shall apply with respect to any successor index, or any methodology changes to, any such Index; resulting in such index remaining an MSCI Standard International Equity Index.

5. Index Marketing:

- a. The parties acknowledge that immediately prior to the effective date of this Amendment, the license fees payable to MSCI under the Agreement for \*\*\*\* as the basis for, or a component of, any Fund were calculated using the formulas set forth in the table in Section 2(b) above.
- b. \*\*\*\* means the difference (if any) in the \*\*\*\* for the use of \*\*\*\* collectively, as the basis for or a component of any Fund calculated using the formula set forth in Section 2(a) above \*\*\*\*.
- c. For any \*\*\*\* received by MSCI in each annual period measured from the effective date of this Amendment and \*\*\*\* during the succeeding annual period. Such marketing or promotional efforts may include the cost of advertisements, road-shows, sales and marketing personnel, speaking engagements, research articles and other publications, conference sponsorships and other such activities.
- d. Licensee acknowledges that MSCI's marketing and promotional efforts shall be limited to MSCI's international indices, and that MSCI has no obligation or intent to market or promote any Funds or Licensee's products or services generally.\*\*\*\*

[\*\*\*\*] Represents material which has been redacted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment pursuant to Rule 406 under the Securities Act of 1933, as amended.



**AMENDMENT**

Date of Amendment: June 5 2007

AMENDMENT to the Index License Agreement for Funds (the "Agreement"), dated as of March 18, 2000, by and between Morgan Stanley Capital International Inc. ("MSCI") and Barclays Global Investors, N.A ("Licensee"); as amended.

1. Exhibit A of the Agreement is hereby amended to replace the Standard Country Indices listed below with the Investable Market Country Indices listed below:

Standard Index

\*\*\*\*

\*\*\*\*

\*\*\*\*

\*\*\*\*

Investable Market Index

\*\*\*\*

\*\*\*\*

\*\*\*\*

\*\*\*\*

2. This Amendment is intended to amend and operate in conjunction with the Agreement and together this Amendment and the Agreement constitute the complete and exclusive statement of the agreement between the parties and supersede in full all prior proposals and understandings, oral or written, relating to the subject matter hereof. No right or license of any kind is granted to Licensee except as expressly provided in the Agreement and this Amendment.
3. This Amendment shall be governed by, and construed in accordance with, the laws of the State of New York without regard to its conflict or choice of laws principles.

BARCLAYS GLOBAL INVESTORS, N.A.

MORGAN STANLEY CAPITAL INTERNATIONAL, INC.

By /s/ Greg Friedman

Name Greg Friedman

By /s/ Dennis SidlauskasName Dennis Sidlauskas  
Executive Director

BARCLAYS GLOBAL INVESTORS, N.A.

By: /s/ Elaine Orr

Name: Elaine Orr

[\*\*\*\*] Represents material which has been redacted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment pursuant to Rule 406 under the Securities Act of 1933, as amended.

**Trademark License Agreement**  
**between**  
**Morgan Stanley Dean Witter & Co.**  
**and**  
**Morgan Stanley Capital International Inc.**

Agreement by and between MORGAN STANLEY DEAN WITTER & CO., a Delaware corporation (“MSDW”) with offices at 1585 Broadway, New York, New York 10036 and MORGAN STANLEY CAPITAL INTERNATIONAL INC., a Delaware corporation (“MSCI”) with offices at 1221 Avenue of the Americas, New York, New York 10020. This agreement is written confirmation of the preexisting agreement between the parties.

1. **DEFINITIONS.** The following terms shall have the following definitions when used in this agreement:

1.1 **“MSDW Marks”** shall mean all the trademarks, service marks, logos, trade names and other source identifiers, whether registered in any jurisdictions or at common law, now owned or hereafter acquired by MSDW which incorporate the mark “MORGAN STANLEY CAPITAL INTERNATIONAL.”

1.2 **“Related Company”** shall mean any company which is more than 50 percent indirectly owned by MSDW through MSCI. A company shall be a Related Company from the moment it becomes more than 50 percent indirectly owned by MSDW through MSCI, and remain a Related Company for so long as it remains more than 50 percent indirectly owned by MSDW through MSCI.

1.3 **“Substantially owned”** shall mean ownership of more than 50 percent.

1.4 **“Territory”** shall mean the entire world.

2. **GRANT.** Subject to the terms and conditions of this agreement:

2.1 MSDW grants to MSCI an exclusive royalty-free license to use the MSDW Marks in the Territory on or in connection with any goods or services and in connection with the advertising and promotion of such goods or services.

2.2 MSDW grants to MSCI an exclusive royalty-free license to use the MSDW Marks in the Territory as part of its corporate and/or trade name.

2.3 The rights granted to MSCI pursuant to this agreement are also licensed to any Related Company pursuant to this agreement, provided such Related Company shall likewise be subject to the terms and conditions of this agreement.

3. **TERM.**

3.1 This agreement shall continue for so long as MSCI remains substantially owned by MSDW.

3.2 Any license granted pursuant this agreement to a Related Company shall continue only for so long as said company remains a Related Company, and MSCI remains substantially owned by MSDW.

4. **QUALITY CONTROL.**

4.1 MSCI and the Related Companies will maintain such quality standards as MSDW may prescribe. Furthermore, neither MSCI nor the Related Companies will use or give permission to a third party to use the MSDW Marks in any manner which would subject MSDW to unfavorable regulatory action, violate any law, violate the rights of any person or entity, or subject MSDW to liability for any reason.

4.2 All uses of the MSDW Marks pursuant to this agreement by MSCI and any Related Company shall be of at least the same high quality as has been previously maintained by MSCI, MSDW and the Related Companies under this agreement and in their ongoing business practices.

4.3 Any and all uses of the MSDW Marks shall be in accordance with all applicable national, state, provincial, local or other laws and regulations.

4.4 The quality of the goods and services has been and shall continue to be maintained through the substantial ownership of MSCI by MSDW, and the minimum threshold ownership of the Related Companies by MSCI as set forth above.

## **5. INTELLECTUAL PROPERTY.**

5.1 MSCI and the Related Companies acknowledge that MSDW is the owner of the MSDW Marks. It is understood and agreed that nothing in this agreement will be deemed in any way to constitute an assignment by MSDW of the MSDW Marks or of any rights therein, or to give MSCI or any of the Related Companies any right, title or interest in and to the MSDW Marks (excepts the right to make use thereof as provided for in this agreement).

5.2 MSDW shall register and maintain registrations for all of the MSDW Marks as it reasonably believes necessary to preserve its rights and the rights of MSCI and the Related Companies in the MSDW Marks.

5.3 Neither MSCI nor any of the Related Companies shall register or apply to register in any trademark office in any jurisdiction any of the MSDW Marks or any mark which contains the term "MORGAN STANLEY CAPITAL INTERNATIONAL." If MSCI or any of the Related Companies registers or applies to register any such marks, said company shall assign such registration or application to MSDW.

5.4 MSCI and the Related Companies are, however, authorized to register as corporate and/or assumed names, names which contain any MSDW Marks. However, MSCI and the Related Companies must change and cease using said corporate and/or assumed names within 90 days after MSCI ceases to be substantially owned by MSDW, and with regard to any Related Company, within 90 days after said Related Company ceases to be a Related Company.

5.5 MSCI and the Related Companies shall cooperate at MSDW's reasonable request with MSDW with regard to the prosecution and maintenance of any applications, registrations, registered user agreements and the like with regard to the MSDW Marks, including the supplying of specimens of use and executing any documents requested by MSDW for such purposes.

## **6. MISCELLANEOUS**

6.1 This agreement is entered into in the State of New York and shall be construed in accordance with the laws of the United States and the internal substantive laws of New York applicable to contracts to be wholly performed therein.

6.2 The parties agree to implement this agreement by executing or causing to be executed such additional and subsidiary agreements and other documents as may be necessary or desirable fully to protect the MSDW Marks and effectively to carry out the terms of this agreement in accordance with applicable laws and regulations.

MORGAN STANLEY DEAN WITTER & CO.

/s/ Charlene R. Herzer  
\_\_\_\_\_  
Date: March 12, 2002  
By: Charlene R. Herzer  
Title: Assistant Secretary

MORGAN STANLEY CAPITAL INTERNATIONAL INC.

/s/ Frederick W. Bogdan  
\_\_\_\_\_  
Date: March 18, 2002  
By: Frederick W. Bogdan  
Title: Executive Director and Counsel

**SERVICES AGREEMENT**

by and between

MORGAN STANLEY

and

MSCI INC.

Dated as of [                    ], 2007

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Exhibit A Compliance with Data Protection Laws

Schedules



“**Applicable Law**” means, with respect to any Person, any federal, state, local or foreign law (statutory, common or otherwise), constitution, treaty, convention, ordinance, code, rule, regulation, order, injunction, judgment, decree, ruling, directive, guidance, instruction, direction, permission, waiver, notice, condition, limitation, restriction or prohibition or other similar requirement enacted, adopted, promulgated, imposed, issued or applied by a Governmental Authority that is binding upon or applicable to such Person, its properties or assets or its business or operations, as amended unless expressly specified otherwise.

“**Baseline Period**” means the twelve months prior to the date hereof.

“**Business Day**” means a day other than a Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by law to close.

“**Change of Control**” means (i) the direct or indirect acquisition (by merger, consolidation, business combination or otherwise) by any Person or group of Persons of beneficial ownership (as defined in Rule 13d-1 and Rule 13d-5 under the Securities Exchange Act of 1934) of 50% or more of the Total Voting Power of MSCI (ii) any merger, consolidation or other business combination of MSCI or a Subsidiary of MSCI with any Person after giving effect to which (x) the shareholders of MSCI immediately prior to such transaction do not own at least 50% of the Total Voting Power of the ultimate parent entity of the parties to such transaction or (y) individuals who were directors of MSCI immediately prior to such transaction (or their designees) do not constitute a majority of the board of directors of such ultimate parent entity; or (iii) the direct or indirect acquisition by any Person or group of Persons of all or substantially all of the assets of MSCI.

“**Class A Common Stock**” means the Class A Common Stock of MSCI, having a par value of \$0.01 per share.

“**Class B Common Stock**” means the Class B Common Stock of MSCI, having a par value of \$0.01 per share.

“**Common Stock**” means the Class A Common Stock and the Class B Common Stock.

“**Confidential Information**” has the meaning set forth in Section 7.01.

“**Data Protection Laws**” means the European Commission Data Protection Directive (95/46/EC) or Data Protection Act 1988 or any implementing or related legislation of any member state in the European Economic Area.

“**force majeure**” has the meaning set forth in Section 8.04.

**“Fully Loaded Cost”** means all costs (other than Senior Management Overhead which will be allocated separately to MSCI as set forth in Section 3.01) of providing any Service, including all out-of-pocket costs, expenses and any related overhead.

**“Governmental Authority”** means any multinational, foreign, federal, state, local or other governmental, statutory or administrative authority, regulatory body or commission or any court, tribunal or judicial or arbitral authority which has any jurisdiction or control over either party (or their Affiliates).

**“Group”** means the MSCI Group or Morgan Stanley Group as applicable.

**“Indemnified Party”** has the meaning set forth in Section 5.07(a).

**“Indemnifying Party”** has the meaning set forth in Section 5.07(a).

**“Insolvency Event”** means with respect to either party, as applicable, (i) the making by such party of any assignment for the benefit of creditors of all or substantially all of its assets or the admission by such party in writing of its inability to pay all or substantially all of its debts as they become due; (ii) the adjudication of such party as bankrupt or insolvent or the filing by such party of a petition or application to any tribunal for the appointment of a trustee or receiver for such party or any substantial part of the assets of such party; or (iii) the commencement of any voluntary or involuntary bankruptcy proceedings (and, with respect to involuntary bankruptcy proceedings, the failure to be discharged within 60 days), reorganization proceedings or similar proceeding with respect to such party or the entry of an order appointing a trustee or receiver or approving a petition in any such proceeding.

**“Invoice Date”** has the meaning set forth in Section 3.03(a).

**“IPO Date”** means the date of completion of the initial sale of MSCI Class A Common Stock in the MSCI IPO.

**“Morgan Stanley”** has the meaning set forth in the recitals hereto.

**“Morgan Stanley Entity”** means any member of the Morgan Stanley Group.

**“Morgan Stanley Group”** means Morgan Stanley and its Subsidiaries (other than any Subsidiary or member of, or other entity in, the MSCI Group) as of and after the IPO Date.

**“Morgan Stanley Indemnified Person”** has the meaning set forth in Section 5.02(a).

**“Morgan Stanley Systems”** means any computer software program or routine or part thereof owned, licensed or provided by any Morgan Stanley Entity or its suppliers on any Morgan Stanley Entity’s behalf, each as modified, maintained or enhanced from time to time by any Morgan Stanley Entity, any MSCI Entity or any third party.

**“MSCI”** has the meaning set forth in the recitals hereto.

**“MSCI Entity”** means any member of the MSCI Group.

**“MSCI Group”** means MSCI and its Subsidiaries as of and after the IPO Date.

**“MSCI Indemnified Person”** has the meaning set forth in Section 4.06.

**“MSCI IPO”** has the meaning set forth in the recitals hereto.

**“MSCI Services”** has the meaning as set forth in Section 2.04.

**“MSCI Systems”** means any computer software program or routine or part thereof owned, licensed or provided by any MSCI Entity or its suppliers on any MSCI Entity’s behalf, each as modified, maintained or enhanced from time to time by any MSCI Entity, any Morgan Stanley Entity or any third party.

**“Non-Compliance Notice”** has the meaning set forth in Section 4.06.

**“Operating Committee”** has the meaning set forth in Section 4.04(a).

**“Payer”** has the meaning set forth in Section 3.02(c).

**“Payee”** has the meaning set forth in Section 3.02(c).

**“Payment Date”** has the meaning set forth in Section 3.03(c).

**“Person”** means individual, corporation, limited liability company, partnership, association, trust or other entity or organization, including a governmental or political subdivision or an agency or instrumentality thereof.

**“Personal Information”** means personally identifiable information as defined under applicable Data Protection Laws of either party which the other party receives or to which the other party otherwise has access.

**“Post-Trigger Costs”** has the meaning set forth in Section 3.01(b).

**“Pre-Trigger Costs”** has the meaning set forth in Section 3.01(a).

“**Schedule**” means a Schedule attached hereto forming part of this Agreement and “Schedules” shall have a corresponding meaning.

“**Senior Management Overhead**” means the portion of compensation-related expenses for Morgan Stanley senior executives as allocated to MSCI.

“**Service Costs**” has the meaning set forth in Section 3.01(b).

“**Services**” has the meaning set forth in Section 2.01(a).

“**Subsidiary**” means, with respect to any Person, any other entity of which securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions are at the time directly or indirectly owned by such Person; *provided that* for the purposes of Sections 2.02, 2.03 and 4.01, such meaning shall be limited to those Subsidiaries of a Person as at the IPO Date only and any Subsidiaries formed in connection with any internal reorganization of such Person.

“**Supplier**” has the meaning set forth in Section 3.02(b).

“**Supply Recipient**” has the meaning set forth in Section 3.02(b).

“**Systems**” means the Morgan Stanley Systems or the MSCI Systems, individually, or the Morgan Stanley Systems and the MSCI Systems, collectively, as the context may indicate or require.

“**Tax**” means any tax, levy, impost, duty or other similar charge (including any penalty or interest payable in connection with any failure to pay or delay in paying the same).

“**Third Party Action**” has the meaning set forth in Section 5.06.

“**Total Voting Power**” means, with respect to any Person, the total combined voting power of all securities of such Person entitled to vote generally in the election of directors of such Person.

“**Trigger Date**” means the date upon which Morgan Stanley shall cease to own more than 50% of the issued and outstanding shares of Common Stock.

“**UK Transfer Regulations**” means the Transfer of Undertakings (Protection of Employment) Regulations 2006, as amended or superseded from time to time.

“**VAT**” means value added tax and any tax of a similar nature imposed under the laws of any jurisdiction.

ARTICLE 2  
PURCHASE AND SALE OF SERVICES

Section 2.01. *Purchase and Sale of Services.* (a) On the terms and subject to the conditions of this Agreement and in consideration of the Service Costs described below, Morgan Stanley agrees to provide MSCI, or procure the provision to MSCI of, and MSCI agrees to purchase from Morgan Stanley, the services (the “**Services**”) as set forth on the Schedules or as may be otherwise agreed in writing by the parties from time to time.

(b) Morgan Stanley and MSCI agree to discuss in good faith at or prior to the Trigger Date (i) which Services can and should be discontinued in light of the circumstances at such time and (ii) which Schedules for any continuing Services shall be restated to reflect agreed final arrangements between the parties; *provided that* in no event shall any Service continue for more than twelve months after the Trigger Date.

Section 2.02. *Subsidiaries.* It is understood that (i) the Services to be provided to MSCI under this Agreement shall, at MSCI’s request, be provided to any Person that is a Subsidiary of MSCI and (ii) Morgan Stanley may satisfy its obligation to provide or procure Services hereunder by causing one or more of its Subsidiaries to provide or procure such Services. With respect to Services provided to, or procured on behalf of, any Subsidiary of MSCI, MSCI agrees to pay on behalf of such Subsidiary all amounts payable by or in respect of such Services pursuant to this Agreement.

Section 2.03. *Additional Services.* Except for the Services expressly contemplated to be provided in accordance with Section 2.01, this Section 2.03 and Section 6.03(c), Morgan Stanley shall have no obligation under this Agreement to provide any services to the MSCI Group. Morgan Stanley agrees to (i) consider in good faith (but shall have no obligation to accept) any requests by MSCI for the provision of any continued or additional services that MSCI considers are reasonably necessary to accommodate normal growth in MSCI’s business and (ii) use reasonable efforts in good faith to provide continued or additional services that MSCI considers are reasonably necessary to transfer responsibility for the provision of any Services from Morgan Stanley to MSCI or any third party as MSCI may designate during the term of this Agreement, and upon termination or expiration of any Service or of this Agreement, including as to data migration. Any such continued or additional services will be on such terms and conditions (including pricing) as the parties shall mutually agree.

Section 2.04. *Services Provided by MSCI*. If it is reasonably necessary for MSCI to provide any services or resources to Morgan Stanley or any third party regarding any aspect of the MSCI Group business or Services (the “**MSCI Services**”) so that Morgan Stanley, any Subsidiary of Morgan Stanley or third party provider may provide the Services hereunder, MSCI shall provide such services or resources (i) in a timely and effective manner; (ii) without cost to Morgan Stanley, any Subsidiary of Morgan Stanley or any third party; and (iii) in a manner that ensures that the nature, quality and standard of care of the MSCI Services provided shall be substantially the same as have been provided by the MSCI Group’s business during the Baseline Period.

Section 2.05. *Third Party Services, Licenses and Consents*. Morgan Stanley and MSCI shall use commercially reasonable efforts to obtain and maintain all governmental or third party services, licenses and consents required for the provision of any Service by Morgan Stanley in accordance with the terms of this Agreement; *provided that* the costs relating to obtaining any such services, licenses or consents, to the extent attributable to the performance of the Services, shall be borne by MSCI; *provided further* that Morgan Stanley shall not be required to provide such Service (x) unless and until the required services, licenses and/or consents have been obtained or (y) in the event the required services, licenses and/or consents are terminated or revoked.

ARTICLE 3  
SERVICE COSTS; OTHER CHARGES

Section 3.01. *Service Costs Generally*. Unless any Schedule hereto indicates otherwise or the parties shall agree in writing to a different arrangement for each Service provided hereunder, MSCI shall pay to Morgan Stanley:

(a) Prior to the Trigger Date, MSCI will continue to be allocated (i) Fully Loaded Costs for any Services it continues to receive from Morgan Stanley and (ii) its share of Senior Management Overhead, in each case applying the same methodology used by Morgan Stanley prior to the MSCI IPO (the “**Pre-Trigger Costs**”); and

(b) After the Trigger Date, MSCI will pay an amount (the “**Post-Trigger Costs**” and, together with the Pre-Trigger Costs, the “**Service Costs**”), reasonably agreed by the parties, for any Services it continues to receive from Morgan Stanley, that will be not less than the Fully Loaded Costs charged or allocated to MSCI immediately prior to the Trigger Date. In addition, after the Trigger Date, Senior Management Overhead will no longer be charged or allocated to MSCI as part of the Services Costs.

Section 3.02. *Taxes.* (a) MSCI shall pay all applicable sales or use taxes incurred with respect to provision of the Services. These taxes shall be incremental to other payments or charges identified in this Agreement.

(b) All amounts to be paid under this Agreement shall be exclusive of VAT, if any. Where, under this Agreement, any person (the “**Supplier**”) makes or is deemed to make a supply to another person (the “**Supply Recipient**”) for VAT purposes and VAT is or becomes chargeable in respect of such supply, the Supply Recipient shall pay to the Supplier an amount equal to such VAT: (i) where the consideration for such supply consists wholly of money, at the same time as paying such consideration; or (ii) where the consideration does not consist wholly of money, on or before the later of the date which is 30 days after the date on which such VAT is demanded in writing or when the supply is made; *provided that* the Supply Recipient shall first have received a proper VAT invoice in respect of such supply, addressed directly to the appropriate MSCI Entity that is in receipt of such supply.

(c) Where this Agreement requires any party (the “**Payer**”) to reimburse another party (the “**Payee**”) for any costs or expenses, the Payer shall also at the same time pay and indemnify the Payee against all VAT incurred by the Payee in respect of the costs or expenses to the extent that the Payee determines that neither it, nor any other member of any group of which it is a member for VAT purposes, is entitled to credit or repayment from the relevant tax authority in respect of VAT.

(d) All sums payable under this Agreement shall be paid free and clear of all deductions or withholdings unless the deduction or withholding is required by law, in which event the amount of the payment due from the party required to make such payment (other than amounts of interest) shall be increased to an amount which after any withholding or deduction leaves an amount equal to the payment which would have been due if no such deduction or withholding had been required.

Section 3.03. *Invoicing and Settlement of Costs.* (a) Prior to the Trigger Date, Morgan Stanley shall continue to allocate costs to MSCI based upon its method of allocating costs immediately prior to the MSCI IPO.

(b) After the Trigger Date, unless any Schedule hereto indicates otherwise or the parties shall agree in writing to a different arrangement, Morgan Stanley shall invoice or notify in writing on a monthly basis (not later than the 15th day of each month) an officer of MSCI designated by MSCI from time to time for such purpose (the date of delivery of such invoice being referred to herein as the “**Invoice Date**”).

(c) MSCI agrees to pay on or before the date (each, a “**Payment Date**”) that is 45 days after the Invoice Date by wire transfer of immediately available funds payable to the order of Morgan Stanley all amounts invoiced by Morgan

Stanley pursuant to Section 3.03(b). If MSCI fails to pay any monthly payment on or before the relevant Payment Date, MSCI shall be obligated to pay, in addition to the amount due on such Payment Date, to the extent permitted by Applicable Law, interest on such amount at the rate of 6% per annum compounded monthly from the relevant Payment Date through the date of payment.

ARTICLE 4  
THE SERVICES

Section 4.01. *Standards of Service.* (a) The level or volume of any specific Service required to be provided to MSCI hereunder shall not materially exceed the level or volume of such Service as historically utilized by the MSCI Group during the Baseline Period. In providing any Service, Morgan Stanley shall have no obligation to allocate human, equipment or other resources materially in excess of the level of resources historically allocated to the provision to the MSCI Group of such Service by Morgan Stanley during the Baseline Period.

(b) The manner, nature, quality and standard of care applicable to the delivery by Morgan Stanley of any Service hereunder shall be (i) substantially the same as that of similar services which Morgan Stanley provides from time to time throughout its business, or (ii) in the case of a Service that Morgan Stanley has not provided in the past, substantially the same as that of similar services provided by similarly situated financial institutions.

(c) Morgan Stanley agrees that all Services it provides or causes to be provided will be provided in compliance with Applicable Law.

(d) After the Trigger Date, if any member of the MSCI Group shall purchase, lease or otherwise acquire any business, assets or properties or rights in respect thereof, Morgan Stanley shall have no obligation to provide any Services hereunder in respect of such acquired business, assets or properties.

Section 4.02. *Changes to the Services.* It is understood and agreed that Morgan Stanley may from time to time modify, change or enhance the manner, nature, quality and/or standard of care of any Service provided to MSCI to the extent Morgan Stanley is making a similar change in the performance of such services for the Morgan Stanley Group; *provided that* any such modification, change or enhancement will not reasonably be expected to have a material adverse effect on such Service. Morgan Stanley shall furnish to MSCI substantially the same notice (in content and timing), if any, as Morgan Stanley furnishes to its own organization with respect to such modifications, changes or enhancements. Any incremental expense incurred by Morgan Stanley in making any such modification, change or enhancement to the Services performed hereunder or in providing such Services on an ongoing basis shall be taken into account in the calculation of Service Costs as contemplated by Section 3.01.

Section 4.03. *Management of Services By Morgan Stanley.* Except as may otherwise be expressly provided in this Agreement, the management of and control over the provision of the Services by Morgan Stanley shall reside solely with Morgan Stanley and notwithstanding anything to the contrary Morgan Stanley shall be permitted to choose the methodology, systems and applications it utilizes in the provision of such Services. The provision, use of and access to the Services shall be subject to (i) any technical and operational changes that may be required to manage any restrictions imposed by Morgan Stanley in respect of data access; (ii) Morgan Stanley's business, operational and technical environment, standards, policies and procedures as may be modified from time to time; (iii) any MSCI Services and/or other third party services, resources or dependencies; (iv) any Applicable Law; and (v) the terms of this Agreement.

Section 4.04. *Operating Committee.* (a) The parties shall use an operating committee (the "**Operating Committee**") to implement the terms of this Agreement. Each of Morgan Stanley and MSCI shall appoint an equal number of employees to the Operating Committee, such number to be as Morgan Stanley and MSCI shall agree as appropriate from time to time. The Operating Committee will oversee the implementation and ongoing operation of this Agreement and shall attempt in good faith to resolve disputes between the parties. Each of the parties shall have the right to replace one or more of its Operating Committee members at any time with employees or officers with comparable knowledge, expertise and decision-making authority.

(b) The Operating Committee shall act by a majority vote of its members. If the Operating Committee fails to make a decision, resolve a dispute or agree upon any necessary action, the unresolved matter shall be referred to a senior officer of each of Morgan Stanley and MSCI notified to the other party for such purpose from time to time, who shall attempt in good faith within a period of 14 days to conclusively resolve any such matter.

(c) During the term of this Agreement, the full Operating Committee shall meet at such times as it considers appropriate. Meetings of the Operating Committee may be in person or via teleconference and shall be convened and held in accordance with such procedures as the Operating Committee may determine from time to time.

Section 4.05. *Disaster Recovery and BCP.* Each party will maintain and operate and shall use reasonable efforts to ensure that all material subcontractors shall maintain and operate contingency, business continuity and disaster recovery facilities and procedures for the purposes of performing its obligations under this Agreement consistent with the facilities and procedures maintained and operated by such party in respect of its business generally.

Section 4.06. *Notice of Certain Matters*. If MSCI at any time believes that Morgan Stanley is not in full compliance with its obligations under Sections 4.01(a), 4.01(b) or 4.01(c), MSCI shall so notify Morgan Stanley in writing of such possible non-compliance by Morgan Stanley. Such notice (a “**Non-Compliance Notice**”) shall set forth in reasonable detail the basis for MSCI’s belief as well as MSCI’s view as to the steps to be taken by Morgan Stanley to address the possible non-compliance. For the 30 days after receipt of such a notice, the members of the Operating Committee (or, if so determined by them, other representatives of Morgan Stanley and MSCI) shall work in good faith to develop a plan to resolve the matters referred to in the Non-Compliance Notice. In the event such matters are not resolved through such discussions, the matter shall be referred for resolution as contemplated by Section 4.04(b). If such matters are not resolved pursuant to Section 4.04(b), MSCI may elect, by notice delivered within 14 days following completion of the time period contemplated by Section 4.04(b), to terminate Morgan Stanley’s obligation to provide or procure, and its obligation to purchase, the Service or Services referred to in its Non-Compliance Notice in accordance with Section 6.02. In the event such matters are resolved through such discussions or, notwithstanding the failure to resolve such matters MSCI does not elect to terminate such Service or Services within such 14-day period, MSCI shall not be entitled to deliver another Non-Compliance Notice or pursue other remedies with respect to same or any substantially similar matter so long as, in the event of a resolution, Morgan Stanley complies in all material respects with the terms of such resolution. In no event shall any termination of any Service or Services pursuant to this Section 4.06 limit or affect MSCI’s right to seek remedies in respect of any breach by Morgan Stanley of any of its obligations under this Agreement prior to such termination, subject to the limitations set forth in Article 5.

ARTICLE 5  
DISCLAIMER, LIABILITY AND INDEMNIFICATION

Section 5.01. *EXCLUSION OF WARRANTIES*. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE SERVICES ARE PROVIDED “AS-IS” WITH NO WARRANTIES, AND MORGAN STANLEY EXPRESSLY EXCLUDES AND DISCLAIMS 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.

Section 5.02. *Limitation of Liability.* (a) MSCI agrees that none of the members of the Morgan Stanley Group and their respective directors, officers, agents and employees (each, a “**Morgan Stanley Indemnified Person**”) shall have any liability, whether direct or indirect, in contract or tort or otherwise, to any MSCI Entity or any other Person for or in connection with the Services rendered or to be rendered by or on behalf of any Morgan Stanley Indemnified Person pursuant to this Agreement, the transactions contemplated hereby or any actions or inactions by or on behalf of Morgan Stanley Indemnified Person in connection with any such Services or transactions, except to the extent any damages have been finally determined by a court of competent jurisdiction to have resulted from such Morgan Stanley Indemnified Person’s gross negligence or willful misconduct in connection with any such Services, actions or inactions.

(b) Notwithstanding the provisions of Section 5.02(a), none of the members of the Morgan Stanley 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 any of the Services or the performance of or failure to perform Morgan Stanley’s obligations under this Agreement. This disclaimer applies without limitation (i) to claims arising from the provision of the Services or any failure or delay in connection therewith; (ii) to claims for lost profits; (iii) regardless of the form of action, whether in contract, tort (including negligence), strict liability or otherwise; and (iv) regardless of whether such damages are foreseeable or whether any member of the Morgan Stanley Group has been advised of the possibility of such damages.

(c) None of the members of the MSCI 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 any of the Services or the performance of or failure to perform MSCI’s obligations under this Agreement. This disclaimer applies without limitation (i) to claims arising from the provision of Services of any failure or delay in connection therewith; (ii) to claims for lost profits; (iii) regardless of the form of action, whether in contract, tort (including negligence), strict liability or otherwise; and (iv) regardless of whether such damages are foreseeable or whether any member of the MSCI Group has been advised of the possibility of such damages.

(d) None of the members of the Morgan Stanley Group shall have any liability to any MSCI Entity or any other Person for failure to perform Morgan Stanley’s obligations under this Agreement or otherwise, where such failure to perform is not caused by the gross negligence or willful misconduct of the Morgan Stanley Entity providing such Services and such failure to perform similarly affects the Morgan Stanley Group receiving such Services and does not have a disproportionately adverse effect on the MSCI Group, taken as a whole.

(e) In addition to the foregoing, MSCI agrees that it shall, in all circumstances, use commercially reasonable efforts to mitigate and otherwise minimize its damages and those of the other MSCI Entities, whether direct or indirect, due to, resulting from or arising in connection with any failure by Morgan Stanley to comply fully with its obligations under this Agreement.

Section 5.03. *Indemnification of Morgan Stanley by MSCI.* MSCI agrees to indemnify and hold harmless each Morgan Stanley Indemnified Person from and against any damages, and to reimburse each Morgan Stanley Indemnified Person for all reasonable expenses as they are incurred in investigating, preparing, pursuing or defending any claim, action, proceeding, or investigation (collectively, “**Actions**”), whether or not in connection with pending or threatened litigation and whether or not any Morgan Stanley Indemnified Person is a party, arising out of, in connection with or related to Services rendered or to be rendered by or on behalf of any Morgan Stanley Indemnified Person pursuant to this Agreement, the transactions contemplated hereby or any actions or inactions by or on behalf of any Morgan Stanley Indemnified Person in connection with any such Services or transactions; *provided that* MSCI shall not be responsible for any damages or expenses of any Morgan Stanley Indemnified Person to the extent such damages or expenses have been finally determined by a court of competent jurisdiction to have resulted from such Morgan Stanley Indemnified Person’s gross negligence or willful misconduct in connection with any of such Services, actions or inactions (it being understood and agreed that the provision by any Morgan Stanley Entity of any of the Services without obtaining the consent of any party to any contract or agreement to which any Morgan Stanley Entity is a party as of the date hereof shall not constitute gross negligence or willful misconduct by any Morgan Stanley Entity; *provided that* the relevant Morgan Stanley Entity has used commercially reasonable efforts to obtain the relevant consent).

Section 5.04. *Indemnification of MSCI by Morgan Stanley.* Morgan Stanley agrees to indemnify and hold harmless each member of the MSCI Group and their respective directors, officers, agents, and employees (each, a “**MSCI Indemnified Person**”) from and against any damages, and shall reimburse each MSCI Indemnified Person for all reasonable expenses as they are incurred in investigating, preparing, or defending any Action, whether or not in connection with pending or threatened litigation and whether or not any MSCI Indemnified Person is a party, to the extent such damages have been finally determined by a court of competent jurisdiction to have arisen out of, in connection with or related to the gross negligence or willful misconduct of any Morgan Stanley Indemnified Person in connection with the Services rendered or to be rendered pursuant to this Agreement.

Section 5.05. *Taxes.* If a party is required to make any payment under Sections 5.03 or 5.04, it shall upon demand pay to the Person receiving such payment an amount equal to any loss, liability or cost which the receiving Person

determines will or has been (directly or indirectly) suffered or incurred on account of Tax by the receiving Person in respect of such payment, net of any Tax benefit actually realized (as reasonably determined by such receiving Person in its sole discretion) in respect of the damages giving rise to such payment.

Section 5.06. *Indemnification as Exclusive Remedy.* Except for the termination rights provided under Sections 6.02(b) and 6.02(c), the indemnification provisions of this Article 5 shall be the exclusive remedy for breach of the Agreement. For the avoidance of doubt, the indemnification provisions of this Article 5, and the limitations on liability set forth herein, shall apply to all Actions between the parties as well as Actions asserted by any third party (a “**Third Party Action**”).

Section 5.07. *Conduct of Proceedings.* (a) The party seeking indemnification under Sections 5.03 or 5.04 (the “**Indemnified Party**”) agrees to give prompt notice to the party against whom indemnity is sought (the “**Indemnifying Party**”) of the assertion of any Action in respect of which indemnity may be sought hereunder and will provide the Indemnifying Party such information with respect thereto that the Indemnifying Party may reasonably request. The failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of its obligations hereunder, except to the extent such failure shall have materially prejudiced the Indemnifying Party.

(b) The Indemnifying Party shall be entitled to participate in the defense of any Third Party Action and, subject to the limitations set forth in this Section 5.07, if it so notifies the Indemnified Party no later than 30 days after receipt of the notice described in Section 5.07(a), shall be entitled to control and appoint lead counsel for such defense, in each case at its expense. If the Indemnifying Party does not control and appoint lead counsel for such defense, the Indemnified Party shall have the right to defend or contest such Third Party Action through counsel chosen by the Indemnified Party reasonably acceptable to the Indemnifying Party, subject to the provisions of this Section 5.07. The Indemnified Party shall provide the Indemnifying Party and such counsel with such information regarding such Third Party Action as either of them may reasonably request (which request may be general or specific).

(c) If the Indemnifying Party shall assume the control of the defense of any Third Party Action in accordance with the provisions of this Section 5.07, (i) the Indemnifying Party shall obtain the prior written consent of the Indemnified Party (which shall not be unreasonably withheld) before entering into any settlement of such Third Party Action, if the settlement does not release the Indemnified Party from all liabilities and obligations with respect to such Third Party Action or the settlement imposes injunctive or other equitable relief against the Indemnified Party and (ii) the Indemnified Party shall be entitled to participate in (but not control) the defense of such Third Party Action and to employ separate counsel of its choice for such purpose. The fees and expenses of such separate counsel shall be paid by the Indemnified Party.

(d) Each party shall cooperate, and cause their respective Affiliates to cooperate, in the defense or prosecution of any Third Party Action and shall furnish or cause to be furnished such records, information and testimony, and attend such conferences, discovery proceedings, hearings, trials or appeals, as may be reasonably requested in connection therewith.

(e) Each Indemnified Party shall use reasonable efforts to collect any amounts available under insurance coverage, or from any other Person alleged to be responsible, for any amounts payable under Section 5.03 or Section 5.04.

(f) If any Third Party Action shall be brought against a member of each Group, then the party as to which the Action primarily relates shall be deemed to be the Indemnifying Party for the purposes of this Article 5 and be entitled to control and appoint lead counsel for the defense of such Action.

## ARTICLE 6 TERM AND TERMINATION

Section 6.01. *Term.* Except as otherwise provided in this Article 6, in Section 8.04, or in any Schedule or as otherwise agreed in writing by the parties, the term of this Agreement with respect to each Service shall commence as of the IPO Date and continue until no more Services are provided hereunder; *provided that* the provisions of Articles 5, 6, 7 and 8 shall survive any such termination indefinitely.

Section 6.02. *Termination.* (a) Except as otherwise provided in any Schedule hereto, MSCI may from time to time terminate this Agreement with respect to one or more of the Services it receives, in whole or in part, upon giving at least 30 days' prior written notice to Morgan Stanley.

(b) Morgan Stanley may terminate any Service or any part thereof it provides at any time if (i) a related Service or a third party service pursuant to which Morgan Stanley provides such Service to MSCI has been terminated or (ii) MSCI shall have failed to perform any of its material obligations under this Agreement relating to any such Service, Morgan Stanley has notified MSCI in writing of such failure and such failure shall have continued for a period of 30 days after receipt by MSCI of written notice of such failure. For the avoidance of doubt, the failure by MSCI to pay the full amount of any invoice when due shall be considered a breach of MSCI's material obligation under this Agreement. With respect to clause (i) of this Section 6.02(b), if Morgan Stanley receives written notice from any third party service provider that such Person intends to terminate

such service, Morgan Stanley and MSCI shall use commercially reasonable efforts to secure the continued provision of that service from such third party or an alternative service provider; *provided that* any costs incurred in doing so, to the extent attributable to the Services, shall be borne by MSCI.

(c) MSCI may terminate any Service it receives as provided in the applicable Schedule or at any time if Morgan Stanley shall have failed to perform any of its material obligations under this Agreement relating to any such Service, MSCI has notified Morgan Stanley in writing of such failure, and such failure shall have continued for a period of 30 days after receipt by Morgan Stanley of written notice of such failure.

(d) At any time following announcement of a transaction involving a Change of Control of MSCI, Morgan Stanley may elect, by delivery of notice in writing to MSCI, to terminate any or all Services hereunder, such termination to take effect on the date or dates specified by Morgan Stanley in such notice; *provided that* without the written consent of MSCI, no such termination of Service shall occur prior to the closing of such Change of Control transaction.

(e) Upon completion of the sale or other disposition of any portion of the MSCI Group's business, assets or properties, Morgan Stanley's obligation to provide any Service in respect of the business, assets or properties so disposed shall terminate automatically and without any notice or other action by Morgan Stanley, and the aggregate level or volume of such Service required to be provided to the MSCI Group and (if applicable) the Service Costs payable by MSCI in respect thereof shall be reduced appropriately.

(f) Either party may terminate this Agreement at any time with immediate effect upon serving written notice upon the other party if the other party suffers an Insolvency Event.

Section 6.03. *Effect of Termination.* (a) Other than as required by law, upon termination of any Service pursuant to Section 6.02, Morgan Stanley shall have no further obligation to provide the terminated Service and MSCI shall have no obligation to pay any fees relating to such Services; *provided that* notwithstanding such termination, (i) MSCI shall remain liable to Morgan Stanley for fees owed and payable in respect of Services provided prior to the effective date of the termination, and (ii) Morgan Stanley shall continue to charge MSCI for administrative and program costs relating to benefits paid after but incurred prior to the termination of any Service and other services required to be provided after the termination of such Service and MSCI shall be obligated to pay such expenses in accordance with the terms of this Agreement.

(b) Termination of this Agreement as provided for herein shall not prejudice or affect any rights or remedies which shall have accrued or shall thereafter accrue to either party.

(c) Following notice of termination of any Service, Morgan Stanley and MSCI agree to cooperate in providing for an orderly transition of such Service to MSCI or a successor service provider. Morgan Stanley agrees to (i) provide promptly, and in any event no later than 60 days following termination of such Service, copies in a usable format then in existence designated by Morgan Stanley of all records relating directly or indirectly to benefit determinations of MSCI employees, including but not limited to compensation and service records (to the extent relevant to such Service), correspondence, plan interpretative policies, plan procedures, administrative guidelines, minutes, or any data or records required to be maintained by law and (ii) cooperate reasonably with MSCI in developing a transition schedule. MSCI shall promptly reimburse Morgan Stanley, upon request, for any and all reasonable costs and expenses incurred by Morgan Stanley or any of its Subsidiaries arising out of or in connection with the performance of its obligations under this Section 6.03(c). For the avoidance of doubt, this Section 6.03(c) is subject to the provisions of Section 2.03.

ARTICLE 7  
ADDITIONAL AGREEMENTS

Section 7.01. *Confidential Information.* The parties hereby covenant and agree to maintain confidential all Confidential Information relating to the other party or any of such other party's Subsidiaries. Without limiting the generality of the foregoing, each party shall cause its employees and agents to exercise the same level of care with respect to Confidential Information relating to the other party or any of its Subsidiaries as it would with respect to proprietary information, materials and processes relating to itself or any of its Subsidiaries. "**Confidential Information**" shall mean all information, materials and processes relating to a party or any Subsidiary of such party obtained by the other party or any Subsidiary of such other party at any time (whether prior to or after the date hereof) in any format whatsoever (whether orally, visually, in writing, electronically or in any other form) relating to, arising out of or in connection with the Services rendered or to be rendered hereunder and shall include, but not be limited to, economic and business information or data, business plans, computer software and information relating to employees, vendors, customers, products, financial performance and projections, processes, strategies and systems but shall not include (i) information which becomes generally available to the public other than by release in violation of the provisions of this Section 7.01, (ii) information which becomes available on a non-confidential basis to a party from a source other than the other party to this Agreement, *provided that* the party in question reasonably believes that such

source is not or was not bound to hold such information confidential, and (iii) information acquired or developed independently by a party without violating this Section 7.01 or any other confidentiality agreement with the other party. Except with the prior written consent of the other party, each party will use the other party's Confidential Information only in connection with the performance of its obligations hereunder and each party shall use commercially reasonable efforts to restrict access to the other party's Confidential Information to those employees of such party requiring access for the purpose of providing Services hereunder. Notwithstanding any provision of this Section 7.01 to the contrary, a party may disclose such portion of the Confidential Information relating to the other party to the extent, but only to the extent, the disclosing party reasonably believes that such disclosure is required under law or the rules of a Governmental Authority; *provided that* the disclosing party first notifies the other party hereto of such requirement and allows such party a reasonable opportunity to seek a protective order or other appropriate remedy to prevent such disclosure. The parties acknowledge that money damages would not be a sufficient remedy for any breach of the provisions of this Section 7.01 and that the non-breaching party shall be entitled to equitable relief in a court of law in the event of, or to prevent, a breach or threatened breach of this Section 7.01.

Section 7.02. *Ownership of Assets.* (a) Morgan Stanley Systems and any and all enhancements thereof or improvements thereto are and shall remain the sole exclusive property of the Morgan Stanley Entities and their suppliers. From and after the creation of any and all such Morgan Stanley Systems or enhancements thereof or improvements thereto by MSCI or by any contractor, Affiliate or other third party on MSCI's behalf, in each case, pursuant to this Agreement, MSCI agrees to assign and hereby assigns to Morgan Stanley or the applicable Morgan Stanley Entity, any and all right, title and interest that MSCI or such contractor, Affiliate or third party may have in such Morgan Stanley Systems or enhancements thereof or improvements thereto.

(b) MSCI Systems and any and all enhancements thereof or improvements thereto are and shall remain the sole exclusive property of the MSCI Entities and their suppliers. From and after the creation of any and all such MSCI Systems or enhancements thereof or improvements thereto by Morgan Stanley or by any contractor, Affiliate or third party on Morgan Stanley's behalf, in each case, pursuant to this Agreement, Morgan Stanley agrees to assign and hereby assigns to MSCI or the applicable MSCI Entity, any and all right, title and interest that Morgan Stanley or such contractor, Affiliate or third party may have in such MSCI Systems or enhancements thereof or improvements thereto.

(c) From the date hereof until the termination of this Agreement, each party grants to the other and its suppliers a non-exclusive, royalty-free right and license to use the Morgan Stanley Systems or the MSCI Systems, as applicable, solely to provide the Services contemplated hereunder. Notwithstanding anything

to the contrary hereunder, each party agrees to cooperate with the other (and shall cause its suppliers to so cooperate) to cause the orderly return of the other party's Systems and property upon the termination of this Agreement or upon written request, whichever is earlier.

(d) With respect to any Systems that a Morgan Stanley Entity or a MSCI Entity, as applicable, is required to maintain or enhance hereunder, as between Morgan Stanley and MSCI, all right, title and interest in and to such enhancements and any related documentation, whether created by the party that provides the Service or any contractor, Affiliate or supplier on such party's behalf, shall be owned exclusively by and vested exclusively in the party by whom the applicable System is owned, licensed or provided.

(e) As between any Morgan Stanley Entity, on the one hand, and any MSCI Entity, on the other hand, all right, title and interest in and to all data processed hereunder shall be owned exclusively by the Morgan Stanley Entity or MSCI Entity that originally supplied it to the other. Morgan Stanley and MSCI hereby assign to the other, and shall cause any of its or their contractors, Affiliates or suppliers to assign to the other, as applicable, all right, title and interest that Morgan Stanley or MSCI, as applicable, may have in the other's data.

(f) Each party shall have written agreements with its employees consistent with past practices, and shall cause any contractor, Affiliate or third party performing Services on its behalf pursuant to this Agreement to also have written agreements with its employees that are consistent with its obligations hereunder, including the obligations to disclose and assign all right, title and interest in intellectual property rights as contemplated in Sections 7.01 and 7.02. Each party agrees not to voluntarily terminate or to amend or modify such agreements with respect to the provisions described above without providing at least 30 days prior written notice thereof and further agrees that any such amendments or modifications to such agreements shall be prospective only.

Section 7.03. *Security.* (a) Other than in connection with the performance of the Services, each member of the MSCI Group and its employees, authorized agents and subcontractors shall only use or access Services and/or any Morgan Stanley Systems, premises or data if such Person is authorized by Morgan Stanley to use or access. In no event shall any member of the MSCI Group and its employees, authorized agents and subcontractors access any Services and/or any of Morgan Stanley Systems, premises or data without Morgan Stanley's prior written consent. Each member of the MSCI Group and its employees, authorized agents and subcontractors shall comply with Morgan Stanley's policies and procedures in relation to the use and access of the Services and Morgan Stanley Systems.

(b) Each member of the Morgan Stanley Group and its employees, authorized agents and subcontractors shall only use or access Services and/or any

MSCI Systems, premises or data if such Person is authorized by MSCI to use or access. In no event shall any member of the Morgan Stanley Group and its employees, authorized agents and subcontractors access any Services and/or any of MSCI Systems, premises or data without MSCI's prior written consent. Each member of the Morgan Stanley Group and its employees, authorized agents and subcontractors shall comply with MSCI's policies and procedures in relation to the use and access of the Services and MSCI Systems.

Section 7.04. *Access To Information.* (a) In connection with the provision of Services hereunder, to the extent either party has access to or acquires Personal Information such party will, and will cause the relevant member of its Group to, comply with the Data Protection Laws and any other laws concerning Personal Information. Without limiting the generality of the foregoing, both parties agree to comply with the covenant set forth in Exhibit A. For a period of six years after the Trigger Date, each Group shall afford promptly the other Group and its agents and, to the extent required by Applicable Law, authorized representatives of any Governmental Authority of competent jurisdiction, reasonable access during normal business hours to its books of account, financial and other records (including accountant's work papers, to the extent consents have been obtained), information, employees and auditors to the extent necessary or useful for such other Group in connection with any audit, investigation, dispute or litigation, complying with their obligations under this Agreement, any regulatory proceeding, any regulatory filings, complying with reporting disclosure requirements or any other requirements imposed by any Governmental Authority or any other reasonable business purpose of the Group requesting such access; *provided that* any such access shall not unreasonably interfere with the conduct of the business of the Group providing such access; *provided further* that in the event any party reasonably determines that affording any such access to the other party would be commercially detrimental in any material respect or violate any Applicable Law or agreement to which such party or member of its Group is a party, or waive any attorney-client privilege applicable to such party or any member of its Group, the parties shall use reasonable efforts to permit the compliance with such request in a manner that avoids any such harm or consequence.

(b) Without limiting the generality of the foregoing, until the end of the first full MSCI fiscal year occurring after the Trigger Date (and for a reasonable period of time afterwards as required for each party to prepare consolidated financial statements or complete a financial statement audit for the fiscal year during which the Trigger Date occurs), each party shall use reasonable efforts, to cooperate with the other party's information requests to enable the other party to meet its timetable for dissemination of its earnings releases, financial statements and enable such other party's auditors to timely complete their audit of the annual financial statements and review of the quarterly financial statements.

(c) For the avoidance of doubt, if requested by MSCI, Morgan Stanley will permit MSCI such access to Morgan Stanley's books, records, accountants, accountants' work papers, personnel and facilities with respect to the Services as is reasonably necessary to enable the management of MSCI to demonstrate compliance with the requirements set forth in Section 404 of the Sarbanes-Oxley Act of 2002, as amended, and the rules and regulations of the Securities Exchange Commission promulgated thereunder. In connection with the foregoing, if at any time MSCI shall identify any material deficiencies in the processes utilized by Morgan Stanley in the provision of Services hereunder, Morgan Stanley and MSCI will cooperate in good faith to develop and implement commercially reasonable action plans and timetables to remedy such deficiencies and/or implement adequate compensating controls.

Section 7.05. *Labor Matters.* All labor matters relating to employees of any Morgan Stanley Entity (including, without limitation, employees involved in the provision of Services to any MSCI Entity) shall be within the exclusive control of Morgan Stanley, and MSCI shall not take any action affecting such matters. Nothing in this Agreement is intended to transfer the employment of employees engaged in the provision of any Service from one party to the other, whether pursuant to the European Union Acquired Rights Directive, UK Transfer Regulations or otherwise. All employees and representatives of a party and any of its Affiliates will be deemed for the purpose of engaging in any Service to be employees or representatives of such party or its Affiliates (or their subcontractors) and not employees or representatives of the other party or any of its Affiliates (or their subcontractors). In providing the Services, such employees and representatives will be under the direction, control and supervision of Morgan Stanley or its Affiliates (or their subcontractors) and not of MSCI.

## ARTICLE 8 MISCELLANEOUS

Section 8.01. *Prior Agreements.* In the event there is any conflict between the provisions of this Agreement, on the one hand, and provisions of prior services agreements among any Morgan Stanley Entity and any MSCI Entity, on the other hand, the provisions of this Agreement shall govern.

Section 8.02. *No Agency; Independent Contractor Status.* Nothing in this Agreement shall constitute or be deemed to constitute a partnership or joint venture between the parties hereto or constitute or be deemed to constitute any party the agent or employee of the other party for any purpose whatsoever and neither party shall have authority or power to bind the other or to contract in the name of, or create a liability against, the other in any way or for any purpose. The parties hereto acknowledge and agree that Morgan Stanley is an independent contractor in the performance of each and every part of this Agreement and

nothing herein shall be construed to be inconsistent with this status. Morgan Stanley shall have the authority to select the means, methods and manner by which any Service is performed.

Section 8.03. *Subcontractors*. (a) Morgan Stanley may hire or engage one or more subcontractors to perform all or any of its obligations under this Agreement; *provided that*:

(i) subject to Section 5.02, Morgan Stanley shall in all cases remain primarily responsible for ensuring that obligations with respect to the standards of services set forth in this Agreement are satisfied with respect to any Service provided by a subcontractor hired or engaged by Morgan Stanley; and

(ii) (A) Morgan Stanley shall have hired or engaged such subcontractor or subcontractors on an occasion prior to the date of this Agreement;

(B) Morgan Stanley shall have received the prior written consent of MSCI; or

(C) Such subcontractor or subcontractors shall be providing concurrently similar services to Morgan Stanley.

(b) If MSCI terminates any Service prior to its scheduled expiration and as a result of such termination any Morgan Stanley Indemnified Person suffers or incurs any liability or damages arising out of or in connection with any third party contract pursuant to which MSCI had received the relevant Service, such Morgan Stanley Indemnified Person shall be entitled to indemnification in accordance with Section 5.03.

Section 8.04. *Force Majeure*. (a) For purposes of this Section 8.04, “**force majeure**” means an event beyond the reasonable control of either party, which by its nature could not have been foreseen by such party, or, if it could have been foreseen, was unavoidable, and includes without limitation, acts of God, storms, floods, riots, fires, sabotage, civil commotion or civil unrest, interference by civil or military authorities, threat, declaration, continuation, escalation or acts of war (declared or undeclared) or acts of terrorism, failure or shortage of energy sources, raw materials or components, strike, walkout, lockout or other labor trouble or shortage, delays by unaffiliated suppliers or carriers, and acts, omissions or delays in acting by any Governmental Authority or the other party.

(b) Without limiting the generality of Section 5.02(a), neither party shall be under any liability for failure to fulfill any obligation under this Agreement, so long as and to the extent to which the fulfillment of such obligation is prevented,

frustrated, hindered, or delayed as a consequence of circumstances of force majeure; *provided that* such party shall have used commercially reasonable efforts to minimize to the extent practicable the effect of force majeure on its obligations hereunder; *provided further* that nothing in this Section 8.04 shall be construed to require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the reasonable judgment of the affected party, are contrary to its interests. It is understood that the settlement of a strike, walkout, lockout or other labor dispute will be entirely within the discretion of the affected party. The party affected by the force majeure event shall notify the other party of that fact as soon as practicable.

Section 8.05. *Entire Agreement.* This Agreement (including the Schedules constituting a part of this Agreement) and any other writing signed by the parties that specifically references this Agreement constitute the entire agreement among the parties with respect to the subject matter hereof and supersede all prior agreements, understandings and negotiations, both written and oral, between the parties with respect to the subject matter hereof. This Agreement is not intended to confer upon any Person other than the parties hereto, their Affiliates and their respective successors and permitted assigns any rights or remedies hereunder.

Section 8.06. *Information.* Subject to Applicable Law and privileges, each party hereto covenants and agrees to provide the other party with all information regarding itself and transactions under this Agreement that the other party reasonably believes are required to comply with all applicable federal, state, county and local laws, ordinances, regulations and codes, including, but not limited to, securities laws and regulations.

Section 8.07. *Notices.* Unless otherwise agreed to by the parties or the Operating Committee, 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:

(a) If to Morgan Stanley to:

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

with a copy to:

Davis Polk & Wardwell  
450 Lexington Avenue  
New York, NY 10017  
Attn: John A. Bick  
Facsimile: (212) 450-3500

(b) If to MSCI Inc. to:

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

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

Section 8.08. *Governing Law.* This Agreement shall be construed in accordance with and governed by the law of the State of New York, without regard to the conflicts of laws rules thereof.

Section 8.09. *Jurisdiction.* 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. Without limiting the foregoing, each party agrees that service of process on such party as provided in Section 8.07 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 8.10. *WAIVER OF JURY TRIAL.* 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.

Section 8.11. *Severability*. If any provision of this Agreement or any part thereof 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.

Section 8.12. *Amendments and Waivers*. (a) Any provision of this Agreement (including the Schedules hereto) 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.

Section 8.13. *Successors and Assigns*. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns; *provided that* no party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the written consent of the other party hereto.

Section 8.14. *Counterparts*. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one agreement.

*[Remainder of page intentionally left blank]*

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

MORGAN STANLEY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

MSCI INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## Exhibit A

### **Compliance with Data Protection Laws**

(a) Each party agrees that it will, and will cause the relevant member of its Group to:

(i) process, use, maintain and disclose Personal Information only as necessary for the specific purpose for which the information was disclosed to it and only in accordance with the Agreement;

(ii) not disclose any Personal Information to any third party (including to the subject of such information) who does not have a need to know such Personal Information;

(iii) implement and maintain an appropriate security program, the terms of which shall meet or exceed the requirements for financial institutions under Data Protection Laws to (a) ensure the security and confidentiality of all information provided to it by any member of the other Group, including Personal Information (collectively, the “**information**”), (b) protect against any threats or hazards to the security or integrity of information, including unlawful destruction or accidental loss, alteration and any other form of unlawful processing, and (c) prevent unauthorized access to, use or disclosure of the information;

(iv) immediately notify the other party in writing if it becomes aware of (a) any disclosure or use of any information by such entity in breach of this Exhibit A, (b) any disclosure of any information to such entity where the purpose of such disclosure is not known, (c) any request for disclosure or inquiry regarding the information from a third party, and (d) any change in Applicable Law that is likely to have a substantial adverse effect on its ability to comply with this Exhibit A;

(v) cooperate with each other and the relevant supervisory authority in the event of litigation or a regulatory inquiry concerning the information and abide by the advice of the other party and the relevant supervisory authority with regard to the processing of such information;

(vi) enter into further agreements as requested by the other party to comply with law from time to time;

(vii) at the other party’s direction at any time, and in any event upon any termination or expiration of the Agreement, immediately return to the relevant member of such party’s Group any or all information or destroy all records of such information;

(viii) cause its subcontractors to act in accordance with this Exhibit A; and

(ix) upon the termination of any Service, return to the relevant member of the other party's Group any or all applicable information which is not necessary for the performance of another Service under the Agreement or destroy all records of such information.

(b) Each party warrants, represents and undertakes for itself and for and on behalf of the other members of its Group that to the extent that it allows access to, discloses, or transfers Personal Information to the other party that:

(i) the other party (including the other members of its Group and their employees, approved agents and subcontractors) shall have the right for the term of the relevant Service to use the Personal Information for the purposes of performing its rights and obligations under this Agreement;

(ii) the Personal Information which it supplies or discloses to the other party pursuant to this Agreement has been obtained fairly and lawfully and will be up to date, complete and accurate in all material respects;

(iii) it shall take all reasonable steps to ensure that the Personal Information can be lawfully used by the other party (including the other members of its Group and their employees, approved agents and subcontractors) for the purposes envisaged by this Agreement;

(iv) it has complied and will comply with all Applicable Law and regulations relating to Personal Information, including, but not limited to, the Data Protection Laws and with all relevant guidelines and guidance notes issued from time to time by the appropriate regulatory authorities; and

(v) it will indemnify and keep indemnified against all claims, proceedings, liabilities, damages, costs, expenses (including legal expenses on an indemnity basis), compensation, court or tribunal awards (including sums paid in settlement of any such claims) suffered or incurred by the other party (including the other members of its Group and their employees, approved agents and subcontractors) arising out of the use of the Personal Information during the course of this Agreement due to the breach of any warranty contained in this clause (b).

(c) Each party represents and warrants to the other party that it has no reason to believe that any Applicable Law will prevent it or the relevant member of its Group from fulfilling the obligations under this Exhibit A.

(d) To the extent that the Personal Information is subject to the Data Protection Laws, data subjects may enforce the provisions of this Exhibit A as a third party beneficiary against the relevant party with respect to their Personal Information but only in cases where the relevant Group member has factually disappeared or has ceased to exist in law. Neither party objects to the data subjects being represented by an association or other body if they so wish and if permitted by national law.

(e) Each party may review the other party's policies and procedures used to maintain the security and confidentiality of information, including auditing the relevant Group member concerning such policies and procedures. The provisions of this Exhibit A supplement, are in addition to, and will not be construed to limit any other confidentiality obligations under the Agreement. Any exclusion from the definition of Confidential Information contained in the Agreement shall not apply to Personal Information.

## TAX SHARING AGREEMENT

between

**MORGAN STANLEY,  
on behalf of itself  
and the members  
of the MS Group,**

and

**MSCI Inc.,  
on behalf of itself  
and the members  
of the MSCI Group**

This Agreement is entered into as of the [ ] day of [ ], 2007 between Morgan Stanley ("MS"), a Delaware corporation, on behalf of itself and the members of the MS Group, as defined below, and MSCI Inc. ("MSCI"), a Delaware corporation, registered to do business in New York as NY MSCI Inc., on behalf of itself and the members of the MSCI Group, as defined below.

## WITNESSETH:

WHEREAS, pursuant to the tax laws of various jurisdictions, certain members of the MSCI Group presently file, and will continue to file prior to certain transactions, certain tax returns on an affiliated, consolidated, combined, unitary, fiscal unity or other group basis (including as permitted by Section 1501 of the Internal Revenue Code of 1986, as amended (the "Code")) with certain members of the MS Group;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the parties agree as follows:

**1. Definitions.**

(a) As used in this Agreement:

"Actually Realized" or "Actually Realizes" shall mean, for purposes of determining the timing of the incurrence of any Tax liability or the realization of a Refund (or any related income tax or other Tax cost or benefit) in respect of any payment, transaction, occurrence or event, the time at which the amount of income taxes paid (or Refund realized) is increased above (or reduced below) the amount of income taxes that would otherwise have been required to be paid (or Refund that would otherwise have been realized) but for such payment, transaction, occurrence or event.

“Affiliate” of any Person shall mean any individual, corporation, partnership or other entity directly or indirectly owning more than 50 percent (by vote or value) of, owned more than 50 percent (by vote or value) by, or under more than 50 percent (by vote or value) common ownership with, such Person.

“After-Tax Amount” shall mean an additional amount necessary to reflect the hypothetical Tax consequences of the receipt or accrual of any payment, using the maximum statutory rate (or rates, in the case of an item that affects more than one Tax) applicable to the recipient of such payment for the relevant Taxable year, reflecting for example, the effect of the deductions available for interest paid or accrued and for Taxes, such as state and local income taxes.

“AMT” shall mean the alternative minimum tax, within the meaning of Section 55 of the Code.

“Barra” shall mean Barra, Inc., a Delaware corporation.

“Code” shall have the meaning ascribed to it in the first “whereas” clause in this Agreement.

“Combined Apportionment Factor” shall mean the apportionment factor reflected on the applicable consolidated, combined or unitary state or local income tax return and utilized in computing the combined, consolidated or unitary state or local income tax liability.

“Consolidated Federal Return” shall mean a Pre-Deconsolidation Period Return filed in respect of federal income taxes by a Consolidated Group.

“Consolidated Group” shall mean any group consisting of (i) at least one member of the MS Group that filed (or will file) any Pre-Deconsolidation Period Return that reflects the income, assets or operations of any member of the MSCI Group or (ii) at least one member of the MSCI Group that filed (or will file) any Pre-Deconsolidation Period Return that reflects the income, assets or operations of any member of the MS Group.

“Consolidated State Return” shall mean a Pre-Deconsolidation Period Return filed in respect of state or local income taxes by a Consolidated Group.

“Deconsolidation Date” shall mean with respect to a Return the date on which any member of the MSCI Group is no longer consolidated, combined or in a unitary relationship (as the case may be) with any member of MS Group in filing such Return.

“Federal Separate Group Tax Liability” shall mean the product of a Group’s Separate Group Taxable Income, computed for federal income tax purposes, and the highest federal income tax rate imposed under the Code on the Taxable income of a corporation for the relevant Taxable period (or portion thereof), reduced by any Tax credits that the Group would be able to use if it were calculating its federal income Tax liability on a stand-alone basis.

“Final Determination” shall mean (i) with respect to federal income taxes, (A) a “determination” as defined in Section 1313(a) of the Code, or (B) the date of acceptance by or on behalf of the IRS of Form 870-AD (or any successor form thereto), as a final resolution of Tax liability for any Taxable period, except that a Form 870-AD (or successor form thereto) that reserves the right of the taxpayer to file a claim for Refund or the right of the IRS to assert a further deficiency shall not constitute a Final Determination with respect to the item or items so reserved; (ii) with respect to Taxes other than federal income taxes, any final determination of liability in respect of a Tax that, under applicable law, is not subject to further appeal, review or modification through proceedings or otherwise; (iii) with respect to any Tax, any final disposition by reason of the expiration of the applicable statute of limitations; or (iv) with respect to any Tax, the payment of Tax by any member of the MS Group or the MSCI Group, whichever is responsible for payment of such Tax under applicable law, with respect to any item disallowed or adjusted by a Taxing Authority, provided that the provisions of Section 13 hereof have been complied with, or, if such section is inapplicable, that the party responsible under the terms of this Agreement for such Tax is notified by the party paying such Tax that it has determined that no action should be taken to recoup such disallowed item, and the other party agrees with such determination.

“Gain Group” shall mean a Group with Separate Group Taxable Income for the relevant Taxable period.

“Group” shall mean the MSCI Group or the MS Group, as appropriate.

“IRS” shall mean the Internal Revenue Service.

“Loss Group” shall mean a Group that incurs a Separate Group Taxable Loss for the relevant Taxable period.

“MSCI Group” shall mean one or more of (i) MSCI, (ii) on or before the Deconsolidation Date, any Person that is, or was, a Subsidiary of MSCI for such period of ownership by MSCI and (iii) to the extent not previously included by (ii), Barra and its Subsidiaries, including for (i), (ii) and (iii) any predecessors and successors thereto.

“MS Group” shall mean one or more of MS and its Subsidiaries other than those entities comprising the MSCI Group.

“Overpayment Rate” shall mean the overpayment rate as set forth in Section 6621 of the Code.

“Person” shall have the meaning ascribed to it in Section 7701(a)(1) of the Code.

“Post-Deconsolidation Period” shall mean any Taxable period (or portion thereof) beginning after the close of business on the Deconsolidation Date.

“Pre-Deconsolidation Period” shall mean any Taxable period ending on or before the close of business on the Deconsolidation Date; provided that if a Taxable period ending after the Deconsolidation Date contains any days which fall prior to or on the Deconsolidation Date, only the portion of such Taxable period up to and including the Deconsolidation Date shall be included in the Pre-Deconsolidation Period.

“Refund” shall mean any refund of Taxes, including any reduction in Taxes by means of a credit, offset or otherwise.

“Return” shall mean any Tax return, statement, report, form, election, claim or surrender (including estimated Tax returns and reports, extension requests and forms, and information returns and reports) required to be filed with any Taxing Authority.

“Separate Group Taxable Income” shall mean, with respect to a Group, such Group’s Taxable income computed as if such Group were a separate consolidated, combined or unitary group, and applying such Tax principles, including limitations and carryovers (excluding limits for charitable contributions and dividends-received deduction, and accounting for deferred intercompany transactions consistent with the deferral and recognition rules of Treasury Regulations Section 1.1502-13 (or any successor rule) or analogous state or local rule), that would have been applicable to such Group had such Group never been part of the Consolidated Group or any other consolidated, combined or unitary group. In the context of state and local tax, Separate Group Taxable Income shall be computed prior to the application of any apportionment formula. Additionally, to the extent a member of a Group has a net operating loss or any other tax attribute that was created prior to becoming a member of the Group but can be carried forward and used by the Group (in the context of state or local law, either before or after apportionment, as determined under applicable law), such attribute will factor into such Group’s calculation of Separate Group Taxable Income (taking into account any applicable limitations on the use thereof).

“Separate Group Taxable Loss” shall mean, with respect to a Group, such Group’s Taxable loss computed as if such Group were a separate consolidated, combined or unitary group, and applying such Tax principles, including limitations and carryovers (excluding limits for charitable contributions and dividends-received deduction, and accounting for deferred intercompany transactions consistent with the deferral and recognition rules of Treasury Regulations Section 1.1502-13 (or any successor rule) or analogous state or local rule), that would have been applicable to such Group had such Group never been part of the Consolidated Group or any other consolidated, combined or unitary group. In the context of state and local tax, Separate Group Taxable Loss shall be computed prior to the application of any apportionment formula. Additionally, to the extent a member of a Group has a net operating loss or any other Tax attribute that was created prior to becoming a member of the Group but can be carried forward and used by the Group (in the context of state or local law, either before or after apportionment, as determined under applicable law), such attribute will factor into the Group’s calculation of Separate Group Taxable Loss (taking into account any applicable limitations on the use thereof).

“State Separate Group Tax Liability” shall mean, with respect to a particular state or locality, the product of the Group’s Separate Group Taxable Income and the Combined Apportionment Factor and the State Tax Rate, reduced by any applicable Tax credits that the Group would be able to use if it were calculating its Tax liability on a stand-alone basis.

“State Tax Rate” shall mean, with respect to a particular state or locality, the highest applicable tax rate imposed under applicable law on the Separate Group Taxable Income of the Group for the relevant Taxable period (or portion thereof).

“Subsidiary” of any Person shall mean any corporation, partnership or other entity directly or indirectly owned more than 50 percent (by vote or value) by such Person.

“Tax” (and the correlative meaning, “Taxes,” “Taxing” and “Taxable”) shall mean (A) any tax imposed under Subtitle A of the Code, or any net income, gross income, gross receipts, alternative or add-on minimum, sales, use, business and occupation, value-added, trade, goods and services, ad valorem, franchise, profits, license, business royalty, withholding, payroll, employment, capital, excise, transfer, recording, severance, stamp, occupation, premium, property, asset, real estate acquisition, environmental, custom duty, or other tax, governmental fee or other like assessment or charge of any kind whatsoever, together with any interest and any penalty, addition to tax or additional amount imposed by a Taxing Authority; (B) any liability of a member of the MS Group or the MSCI Group, as the case may be, for the payment of any amounts of the type described in clause (A) for any Taxable period resulting from such member being

a part of a consolidated group pursuant to the application of Treasury Regulations Section 1.1502-6 or any similar provision applicable under state, local or foreign law; or (C) any liability of a member of the MS Group or the MSCI Group for the payment of any amounts described in clause (A) as a result of any express or implied obligation to indemnify any other Person.

“Tax Benefit” shall have the meaning ascribed to it in Section 10(d) of this Agreement.

“Tax Proceeding” shall mean any Tax audit, dispute or proceeding (whether administrative, judicial or contractual).

“Taxing Authority” shall mean any governmental authority (domestic or foreign), including, without limitation, any state, municipality, political subdivision or governmental agency, responsible for the imposition of any Tax.

“Underpayment Rate” shall mean the underpayment rate as set forth in Section 6621 of the Code.

(b) Any term used in this Agreement which is not defined in this Agreement shall, to the extent the context requires, have the meaning assigned to it in the Code or the applicable Treasury regulations thereunder (as interpreted in administrative pronouncements and judicial decisions), or in comparable provisions of applicable law.

**2. Tax Sharing Agreements.** Any and all existing Tax sharing agreements or arrangements, written or unwritten, between any member of the MS Group and any member of the MSCI Group, other than this Agreement, shall terminate upon the execution of this Agreement. Upon the execution of this Agreement, neither the members of the MSCI Group nor the members of the MS Group shall have any further rights or liabilities thereunder, and this Agreement shall be the only Tax sharing agreement between the members of the MSCI Group and the members of the MS Group. MS and MSCI shall act in good faith in the performance of this Agreement.

### **3. Federal Income Taxes.**

(a) *Return Filing.*

(i) MS shall prepare and file, or cause to be prepared and filed, Consolidated Federal Returns for which the Consolidated Group is required or permitted to file a Consolidated Federal Return using, *inter alia*, information provided by MSCI. MSCI shall provide MS with all necessary information to file a Consolidated Federal Return not later than 45 days after MS's

fiscal year-end and shall respond promptly to all information requests, but in no event more than two business days following a request. Each member of the Consolidated Group shall execute and file such consents, elections and other documents as may be required or appropriate for the filing of such Consolidated Federal Returns. All Tax elections shall be at the sole discretion of MS provided, however, that MSCI shall be entitled to direct MS to make any and all Tax elections that exclusively affect the MSCI Group, subject to MS's consent. All income tax computations performed on a consolidated basis will be performed or approved by MS. MS shall not change any method of accounting that relates exclusively to the MSCI Group for any Tax purpose if such change adversely affects the MSCI Group unless such change is required by law. MS shall notify and discuss with MSCI prior to the filing of a Consolidated Federal Return any potential material differences in the information provided by MSCI to be used in the preparation of such Consolidated Federal Return and the position MS intends to take on such Consolidated Federal Return.

(ii) MS shall pay, or cause to be paid, and, subject to the provisions of Section 3(b), shall be responsible for, any and all federal income taxes due or required to be paid with respect to, or required to be reported on, any such Consolidated Federal Return.

(iii) In the event a Consolidated Federal Return is not filed, each relevant member of the MS Group and MSCI Group shall be responsible for (i) filing its own Pre-Deconsolidation Period Return in respect of federal income taxes as a separate entity, including requests for extension, as if this Agreement were not in effect and (ii) making Tax payments (including estimated Tax payments, if necessary). Each such member filing a Return as a separate entity shall be entitled to any Tax Benefit and shall be liable for any Tax burden resulting from the filing of such separate Return.

*(b) Allocated Tax Charge.*

(i) MS shall be responsible for calculating the Separate Group Taxable Income or Separate Group Taxable Loss of each Group included in the Consolidated Federal Return. Each Group included in the Consolidated Federal Return shall bear its Federal Separate Group Tax Liability, if any. For purposes of such calculation, the deduction for state and local taxes to which each Group is entitled will be determined in a manner consistent with Section 4 of this Agreement.

(ii) If the MSCI Group included in the Consolidated Federal Return incurs a Separate Group Taxable Loss, MS shall pay to the MSCI Group (A) the amount, if any, by which the federal income taxes payable with respect to the Consolidated Federal Return are actually reduced by reason of the MSCI Group's Separate Group Taxable Loss and (B) any Refund of federal income taxes or other federal income Tax Benefit attributable to such Separate Group Taxable Loss that is Actually Realized, in each case as determined by MS in its sole discretion (including that any Tax Benefits of the MS Group shall be fully utilized before utilizing any Tax Benefits of the MSCI Group). To the extent the MSCI Group receives a payment or credit from MS in respect of a Separate Company Taxable Loss pursuant to this Section 3(b)(ii), such loss shall not be carried forward or carried back by the MSCI Group for purposes of determining Separate Group Taxable Income or Separate Group Taxable Loss in any other Taxable period (or portion thereof). To the extent the MSCI Group does not receive a payment or credit from MS in respect of a Separate Group Taxable Loss pursuant to this Section 3(b)(ii), such loss may be carried forward or carried back, subject to any applicable limitation with respect to carry forward or carry back losses, by the MSCI Group for purposes of determining Separate Group Taxable Income or Separate Group Taxable Loss in another Taxable period (or portion thereof).

(iii) If the MSCI Group included in the Consolidated Federal Return has a foreign Tax credit or other Tax credit that it is unable to use in its calculation of Federal Separate Group Tax Liability (other than an AMT credit), MS shall pay to the MSCI Group (A) the amount, if any, by which the federal income taxes payable with respect to the Consolidated Federal Return is actually reduced by reason of the MSCI Group's Tax credit and (B) any Refund of federal income taxes or other federal income Tax Benefit attributable to such Tax credit that is Actually Realized, in each case as determined by MS in its sole discretion (including that any Tax Benefits of the MS Group shall be fully utilized before utilizing any Tax Benefits of the MSCI Group). To the extent the MSCI Group receives a payment or credit from MS in respect of a Tax credit pursuant to this Section 3(b)(iii), the MSCI Group's Federal Separate Group Tax Liability will be adjusted to reflect the fact that the MSCI Group has previously received the benefit of such credit. To the extent the MSCI Group does not receive a payment or credit from MS in respect of a Tax credit pursuant to this Section 3(b)(iii), such Tax credit may be

carried forward or carried back, subject to any applicable limitation with respect to carry forward or carry back of Tax credits, by the MSCI Group for purposes of calculating its Separate Group Tax Liability in another Taxable period (or portion thereof).

(iv) In the event a Consolidated Group incurs an AMT liability with respect to any Taxable period (or portion thereof), MS shall be solely responsible for such liability. Any Tax Benefit arising from the utilization of a consolidated federal AMT credit shall be for the sole benefit of MS.

#### **4. State and Local Income Taxes.**

*(a) Return Filing.*

(i) MS shall prepare and file, or cause to be prepared and filed, Consolidated State Returns for which a Consolidated Group is required or permitted to file a Consolidated State Return using, *inter alia*, information provided by MSCI. MSCI shall provide MS with all necessary information to file a Consolidated State Return not later than 45 days after MS's fiscal year-end and shall respond promptly to all information requests, but in no event more than two business days following a request. Each member of the Consolidated Group shall execute and file such consents, elections and other documents as may be required or appropriate for the filing of such Consolidated State Returns. All Tax elections shall be made at the discretion of MS provided, however, that MSCI shall be entitled to direct MS to make any and all Tax elections that exclusively affect the MSCI Group, subject to MS's consent. All Tax computations performed on a combined, consolidated or unitary basis will be performed or approved by MS. MS shall not change any method of accounting that relates exclusively to the MSCI Group for any Tax purpose if such change adversely affects the MSCI Group unless such change is required by law. MS shall notify and discuss with MSCI prior to the filing of a Consolidated State Return any potential material differences in the information provided by MSCI to be used in the preparation of such Consolidated State Return and the position MS intends to take on such Consolidated State Return.

(ii) MS shall pay, or cause to be paid, and, subject to the provisions of Section 4(b), shall be responsible for, any and all income taxes due or required to be paid with respect to, or required to be reported on, any such Consolidated State Return.

(iii) In the event a Consolidated State Return is not filed, each relevant member of the MS Group and MSCI Group shall be responsible for (A) filing its own Return as a separate entity, or its own Return in respect of state and local income Taxes relating to a group consisting solely of members of the MS Group or members of the MSCI Group, as the case may be, on behalf of the separate group, in each case including requests for extension, as if this Agreement were not in effect and (B) making Tax payments (including estimated Tax payments, if necessary). Each such member filing a Return as a separate entity shall be entitled to any Tax Benefit and shall be liable for any Tax burden resulting from the filing of such separate Return.

*(b) Allocated Tax Charge.*

(i) MS shall be responsible for calculating the Separate Group Taxable Income or Separate Group Taxable Loss for each Group included in a Consolidated State Return. Each Group included in a Consolidated State Return shall bear its State Separate Group Tax Liability, if any.

(ii) If the MSCI Group included in a Consolidated State Return incurs a Separate Group Taxable Loss, MS shall pay, or shall cause to be paid, to the MSCI Group (A) the amount, if any, by which the state or local income taxes reflected on such Return are actually reduced by reason of the MSCI Group's Separate Group Taxable Loss and (B) any Refund of state or local income taxes or other state or local income Tax Benefit attributable to such Separate Group Taxable Loss that is Actually Realized, in each case as determined by MS in its sole discretion (including that any Tax Benefits of the MS Group shall be fully utilized before utilizing any Tax Benefits of the MSCI Group). To the extent the MSCI Group receives a payment or credit from MS in respect of a Separate Group Taxable Loss pursuant to this Section 4(b)(ii), such loss shall not be carried forward or carried back by the MSCI Group for purposes of determining Separate Group Taxable Income or Separate Group Taxable Loss in any other Taxable period (or portion thereof). To the extent the MSCI Group does not receive a payment or credit from MS in respect of a Separate Group Taxable Loss pursuant to this Section 4(b)(ii), such loss may be carried forward or carried back, subject to any applicable limitation with respect to carry forward or carry back losses, by the MSCI Group for purposes of determining Separate Group Taxable Income or Separate Group Taxable Loss in another Taxable period (or portion thereof).

(iii) If the MSCI Group included in a Consolidated State Return has a Tax credit that it is unable to use in its calculation of State Separate Group Tax Liability, MS shall pay to the MSCI Group (A) the amount, if any, by which the state or local income taxes reflected on such Return is actually reduced by reason of the Consolidated Group's Tax credit and (B) any Refund of state or local income taxes or other state or local income Tax Benefit attributable to such Tax credit that is Actually Realized, in each case as determined by MS in its sole discretion (including that any Tax Benefits of the MS Group shall be fully utilized before utilizing any Tax Benefits of the MSCI Group). To the extent the MSCI Group receives a payment or credit from MS in respect of a Tax credit pursuant to this Section 4(b)(i)(C), the MSCI Group's State Separate Group Tax Liability will be adjusted to reflect the fact that the MSCI Group has previously received the benefit of such credit. To the extent the MSCI Group does not receive a payment or credit from MS in respect of a Tax credit pursuant to this Section 4(b)(iii), such Tax credit may be carried forward or carried back, subject to any applicable limitation with respect to carry forward or carry back of Tax credits, by the MSCI Group for purposes of calculating its State Separate Group Tax Liability in another Taxable period (or portion thereof).

**5. Foreign Income Tax.** With respect to each Group's Tax liability for foreign Taxes, the principles set forth in Section 4 shall apply *mutatis mutandis*.

**6. Estimated Tax Payments.**

(a) If estimated Tax payments are required with respect to a Consolidated Group for a Pre-Deconsolidation Period, MS shall pay, or cause to be paid, to the IRS, and/or to each relevant state and local Taxing Authority, on behalf of the members of such Consolidated Group, those estimated Tax payments that are due on the relevant dates prescribed by applicable law. On February 15 (or the proper due date under applicable law), MS shall pay to the IRS, and to each relevant state and local Taxing Authority, on behalf of the members of any Consolidated Group, the payment, if any, required to be made with a request for an extension of time in which to file a Consolidated Federal Return or a Consolidated State Return, as the case may be. Each Group's share of such estimated Tax payments, and payments required to be made with a request for an extension of time in which to file a Consolidated Federal Return or a Consolidated State Return, shall be determined in a manner consistent with the methods set forth in Sections 3 and 4 of this Agreement.

Reimbursement to MS of the MSCI Group's share of any quarterly estimated tax payments or any payment made with a request for an extension of time in which to file a Consolidated Federal Return or a Consolidated State Return, shall be made within twenty business days after receiving notice of such liability from MS. If the MSCI Group's share of any estimated Tax payment is negative, MS shall reimburse MSCI within twenty business days after the due date under applicable law of such estimated tax payment.

(b) Notwithstanding the provisions of Section 6(a), if MS requests in writing an advance reimbursement from the MSCI Group of the MSCI Group's share of a quarterly estimated Tax payment or any payment required to be made with a request for an extension of time in which to file a Consolidated Federal Return or a Consolidated State Return, which request shall be not more than ten business days and not less than 5 business days prior to the due date of such payment, the MSCI Group shall reimburse MS not later than the due date of such estimated Tax payment.

#### **7. Settlement Procedures; Certain Other Payments.**

(a) MS shall calculate settlement of the final federal, state, local and foreign Tax liability for all Pre-Deconsolidation Periods, and notify the MSCI Group of such settlement. Subject to Section 21 of this Agreement (relating to dispute resolution procedures), the MSCI Group shall pay to MS its share of such Tax liability, as determined under Sections 3, 4 and 5 of this Agreement, within twenty business days after receiving notice of such Tax liability from MS. Any amounts paid by any member of the MSCI Group pursuant to Section 6 and any amounts receivable by the MSCI Group in respect of a Separate Group Taxable Loss or Tax credit shall be included in determining the payments due from the MSCI Group. If the sum of any payments by the MSCI Group pursuant to Section 6, and any amounts receivable by the MSCI Group in respect of a Separate Group Taxable Loss or Tax credit exceed its Tax liability, such excess shall be refunded to the MSCI Group. Interest will be due on any underpayment or overpayment of Tax, computed from the date on which a final Return is filed, (i) if owed by the MSCI Group to MS on an underpayment, at the Underpayment Rate and (ii) if owed by MS to the MSCI Group on an overpayment, the Overpayment Rate.

(b) If a portion or all of an unused loss or Tax credit is allocated to a member of the Consolidated Group, pursuant to Treasury Regulations Section 1.1502-21(b) or Treasury Regulations Section 1.1502-79, and is carried back or forward to a Taxable year in which such member filed a separate Return or consolidated, combined or unitary

Return with an affiliated group that is not a Consolidated Group, any Refund or reduction in Tax liability arising from such carry back or carryover shall be retained by such member, subject to future audit adjustments. Notwithstanding the foregoing, MS, in its sole discretion, shall determine whether an election shall be made to relinquish the entire carry back period with respect to part or all of a consolidated net operating loss for any Pre-Deconsolidation Period in accordance with Treasury Regulations Section 1.1502-21(b)(3).

(c) Notwithstanding Section 7(b) above, no member of the MSCI Group shall make any election to carry back any Tax item from a Post-Deconsolidation Period to a Pre-Deconsolidation Period without MS's written consent. In the event that MS consents to the carry back of any Tax item by a member of the MSCI Group from a Post-Deconsolidation Period to a Pre-Deconsolidation Period or in the event that a member of the MSCI Group is required by applicable law to carry back a Tax item from a Post-Deconsolidation Period to a Pre-Deconsolidation Period, MS shall currently compensate the MSCI Group only for a Tax item that is carried back which does not result in the loss or deferral of any Tax attribute of any member of the MS Group. In the event that such item of a member of the MS Group is only deferred, MS shall make a payment to the MSCI Group in respect of such deferred item at the time the MS Group Actually Realizes the deferred Tax attribute. To the extent the MS Group suffers a permanent loss of such Tax attribute, no payment shall be made to the MSCI Group.

(d) MSCI and MS hereby acknowledge and agree that Sections 6 and 7(a) are applicable only with respect to Pre-Deconsolidation Periods for which no final Return has been filed prior to the date hereof.

(e) MSCI shall make payments to MS in respect of the Tax Benefit recognized by any member of the MSCI Group from the exercise of options on MS stock and the conversion of restricted MS stock units by employees of MSCI and the members of the MSCI Group.

**8. Other Taxes.** All federal, state, local, foreign and other Taxes that are not otherwise expressly dealt with herein shall be the responsibility of the Person who has primary liability for such Taxes, and the filing of any Returns with respect to such Taxes shall be the responsibility of the Person responsible for filing such Returns under applicable law.

**9. Additional Events.** The parties agree that, in the event MS decides to distribute shares of MSCI to MS shareholders in a transaction intended to qualify under Section 355 of the Code, this Agreement will be amended prior to the distribution date to include representations, covenants and indemnities substantially in the form provided in Exhibit A attached hereto.

## 10. Indemnities.

(a) *MSCI Indemnity.* MSCI and each member of the MSCI Group will jointly and severally indemnify MS and the members of the MS Group against, and hold them harmless from:

(i) any Tax liability of the MSCI Group as determined in accordance with this Agreement;

(ii) any liability or damage resulting from a breach by MSCI or any member of the MSCI Group of any representation or covenant made by MSCI herein, including any representation or covenant made by MSCI pursuant to the amendment to this Agreement as provided in Section 9; and

(iii) all liabilities, costs, expenses (including, without limitation, reasonable expenses of investigation and attorneys' fees and expenses), losses, damages, assessments, settlements or judgments arising out of or incident to the imposition, assessment or assertion of any Tax liability or damage described in (i) or (ii), including those incurred in the contest in good faith in appropriate proceedings relating to the imposition, assessment or assertion of any such Tax, liability or damage.

(b) *MS Indemnity.* MS and each member of the MS Group will jointly and severally indemnify MSCI and the members of the MSCI Group against, and hold them harmless from:

(i) any Tax liability of the Consolidated Group, other than any such liabilities described in Section 10(a);

(ii) any Taxes imposed on MSCI or any member of the MSCI Group under Treasury Regulation 1.1502-6 (or similar provision of state, local or foreign law) solely as a result of MSCI or any such member being or having been a member of a Consolidated Group to the extent payment is first sought by a Taxing Authority from a member of the MSCI Group;

(iii) any liability or damage resulting from a breach by MS or any member of the MS Group of any representation or covenant made by MS herein; and

(iv) all liabilities, costs, expenses (including, without limitation, reasonable expenses of investigation and attorneys' fees and expenses), losses, damages, assessments, settlements or judgments arising out of or incident to the imposition, assessment or assertion of any Tax liability or damage described in (i), (ii) or (iii) including those incurred in the contest in good faith in appropriate proceedings relating to the imposition, assessment or assertion of any such Tax, liability or damage.

If a member of the MS Group ceases to be an Affiliate of MS as a result of a sale of its stock to a third party (whether or not treated as a sale or exchange of stock for Tax purposes), such member of the MS Group shall be released from its obligations under this Agreement upon such sale and neither MS nor any member of the MS Group shall have any obligation to indemnify MSCI or any member of the MSCI Group under Section 10(b)(iii) for any liability or damage attributable to actions taken by such Affiliate after such sale.

If a member of the MSCI Group ceases to be an Affiliate of MSCI as a result of a sale of its stock to a third party (whether or not treated as a sale or exchange of stock for Tax purposes) (a "Former MSCI Group Member"), such Former MSCI Group Member shall be released from its indemnity obligations under this Section 10, provided that the Applicable Percentage with respect to such transaction does not exceed 15%. The "Applicable Percentage" shall mean with respect to each transaction the sum of (a) (i) the aggregate of the audited operating revenue for the previous 12 months as of the time of its separation from the MSCI Group of each Former MSCI Group Member that is a party to such transaction divided by (ii) the audited operating revenue of the MSCI Group for the previous 12 months as of the time immediately prior to such transaction, and (b) for each Former MSCI Group Member that previously separated from the MSCI Group, (iii) the audited operating revenue of such Former MSCI Group Member for the previous 12 months as of the time of its separation from the MSCI Group divided by (iv) the audited operating revenue of the MSCI Group for the previous 12 months as of the time immediately prior to its separation from the MSCI Group. In any transaction in which the Applicable Percentage exceeds 15%, which may be the first transaction with respect to a Former MSCI Group Member, each Former MSCI Group Member that is a party to such transaction and all future Former MSCI Group Members shall remain liable for the indemnity obligations under this Section 10.

(c) *Discharge of Indemnity.* MSCI, MS and the members of the MSCI Group and MS Group, respectively, shall discharge their obligations under Sections 10(a) and 10(b) hereof, respectively, by paying the relevant amount within 30 days of demand therefor. Any such demand shall include a statement showing the amount due under Section 10(a) or

10(b), as the case may be. Items described in Section 10(a)(i) and 10(b)(i) shall be calculated as set forth in Sections 3, 4, 5 and 6. Notwithstanding the foregoing, if either MSCI, MS or any member of the MSCI Group or MS Group disputes in good faith the fact or the amount of its obligation under Section 10(a) or Section 10(b), then no payment of the amount in dispute shall be required until any such good faith dispute is resolved in accordance with Section 21 hereof; provided, however, that any amount not paid within 30 days of demand therefor shall bear interest as provided in Section 14.

(d) *Tax Benefits.* If an indemnification obligation of any member of the MS Group or any member of the MSCI Group, as the case may be, under this Section 10 with respect to a Consolidated Group arises in respect of an adjustment that makes allowable to a member of the MSCI Group or a member of the MS Group, respectively, any deduction, amortization, exclusion from income or other allowance (a "Tax Benefit") which would not, but for such adjustment, be allowable, then any payment by any member of the MS Group or any member of the MSCI Group, respectively, pursuant to this Section 10 shall be an amount equal to (x) the amount otherwise due but for this subsection (d), minus (y) the present value of the product of the Tax Benefit multiplied (i) by the maximum applicable federal, foreign, state or local, as the case may be, corporate Tax rate in effect at the time such Tax Benefit becomes allowable to a member of the MSCI Group or a member of the MS Group (as the case may be) or (ii) in the case of a credit, by 100 percent. The present value of such product shall be determined by discounting such product from the time the Tax Benefit becomes allowable at a rate equal to the Prime Rate as published in the *Wall Street Journal, Eastern Edition*.

**11. Guarantees.** MS or MSCI, as the case may be, shall guarantee or otherwise perform the obligations of each member of the MS Group or the MSCI Group, respectively, under this Agreement

## **12. Communication and Cooperation.**

(a) *Consult and Cooperate.* MSCI and MS shall consult and cooperate (and shall cause each member of the MSCI Group or the MS Group, respectively, to cooperate) fully at such time and to the extent reasonably requested by the other party in connection with all matters subject to this Agreement. Such cooperation shall include, without limitation,

(i) the retention, and provision on reasonable request, of any and all information including all books, records, documentation or other information pertaining to Tax matters

relating to the MS Group and the MSCI Group, any necessary explanations of information, and access to personnel, until one year after the expiration of the applicable statute of limitation (giving effect to any extension, waiver, or mitigation thereof);

(ii) the execution of any document that may be necessary (including to give effect to Section 13) or helpful in connection with any required Return or in connection with any audit, proceeding, suit or action; and

(iii) the use of the parties' best efforts to obtain any documentation from a governmental authority or a third party that may be necessary or helpful in connection with the foregoing.

(b) *Provide Information.* MS and MSCI shall keep each other fully informed with respect to any material development relating to the matters subject to this Agreement.

(c) *Tax Attribute Matters.* MS and MSCI shall promptly advise each other with respect to any proposed Tax adjustments relating to a Consolidated Group, which are the subject of an audit or investigation, or are the subject of any proceeding or litigation, and which may affect any Tax liability or any Tax attribute of MS, MSCI, the MS Group, the MSCI Group or any member of the MSCI Group or the MS Group (including, but not limited to, basis in an asset or the amount of earnings and profits).

### **13. Audits and Contest.**

(a) MS or MSCI shall promptly notify the other in writing upon the receipt of any notice of Tax Proceeding from the relevant Taxing Authority that could reasonably result in an indemnity obligation of a party under this Agreement; provided, that a party's right to indemnification under this Agreement shall not be limited in any way by a failure to so notify, except to the extent that the indemnifying party is materially prejudiced by such failure.

(b) MS shall have full control over all matters relating to any Return or any Tax Proceeding relating to any Tax matters of at least one member of the MS Group; provided, however, that MSCI shall have full control over Tax Proceedings involving issues relating solely to a Tax liability of one or more members of the MSCI Group. Except as provided in Section 13(c), MS shall have absolute discretion with respect to any decisions to be made, or the nature of any action to be taken, with respect to any matter described in the preceding sentence.

(c)

(i) Upon request, during the course of any Tax Proceeding relating to a Tax liability or damage described in Section 10(a), MSCI shall from time to time furnish MS with evidence reasonably satisfactory to MS of MSCI's ability to pay the amount for which it could reasonably be expected to be responsible pursuant to Section 10(a). If at any time during such Tax Proceeding MS determines that MSCI could not pay such amount, then MSCI shall be required to furnish a guarantee or performance bond satisfactory to MS in an amount equal to the amount for which MSCI could reasonably be expected to be responsible pursuant to Section 10(a).

(ii) Notwithstanding anything to the contrary in this Agreement, in the event a Tax Proceeding involves an issue that is common to both the MS Group and the MSCI Group, MS shall use its best efforts to settle such issues on behalf of the MS Group and the MSCI Group on a consistent basis.

(d) The indemnified party agrees to give notice to the indemnitor of the assertion of any claim, or the commencement of any suit, action or proceeding in respect of which indemnity may be sought hereunder within 30 days of such assertion or commencement, or such earlier time that would allow the indemnitor to timely respond to such claim, suit action or proceeding.

(e) With respect to Returns relating solely to one or more members of the MSCI Group (taking into account the parties' obligations under Section 10), MSCI and the members of the MSCI Group shall have full control over all matters relating to any Tax Proceeding in connection therewith. MSCI and the members of the MSCI Group shall have absolute discretion with respect to any decisions to be made, or the nature of any action to be taken, with respect to any matter described in the preceding sentence.

**14. Payments.** All payments to be made hereunder shall be made in immediately available funds. Except as otherwise provided, all payments required to be made pursuant to this Agreement will be due 30 days after the receipt of notice of such payment or, where no notice is required, 30 days after the fixing of liability or the resolution of a dispute. Payments shall be deemed made when received. Any payment that is not made by the MS Group when due shall bear interest at the Overpayment Rate for each day until paid. Any payment that is not made by the MSCI Group when due shall bear interest at the Underpayment Rate for each day until paid. If, pursuant to a Final Determination, any amount

paid by MS or the members of the MS Group or MSCI or the members of the MSCI Group, as the case may be, pursuant to this Agreement results in any increased Tax liability or reduction of any Tax asset of MSCI or any member of the MSCI Group or MS or any member of the MS Group, respectively, then MS or MSCI, as appropriate, shall indemnify the other party and hold it harmless from any interest or penalty attributable to such increased Tax liability or the reduction of such Tax asset and shall pay to the other party, in addition to amounts otherwise owed, the After-Tax Amount. With respect to any payment required to be made or received under this Agreement, MS has the right to designate, by written notice to MSCI, which member of the MS Group will make or receive such payment.

**15. Notices.** Any notice, demand, claim, or other communication under this Agreement shall be in writing and shall be deemed to have been given upon the delivery or mailing, thereof, as the case may be, if delivered personally or sent by certified mail, return receipt requested, postage prepaid, to the parties at the following addresses (or at such other address as a party may specify by notice to the other):

If to MS or the MS Group, to:

Morgan Stanley  
1633 Broadway, 25<sup>th</sup> Floor  
New York, NY 10019  
Attn: Harvey B. Mogenson, Global Head of Tax  
Facsimile: (212) 507-3643

With a copy to:

Davis Polk & Wardwell  
450 Lexington Avenue  
New York, NY 10017  
Attn: John A. Bick  
Facsimile: (212) 450-3500

If to MSCI or the MSCI Group, to:

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

**16. Costs and Expenses.**

(a) Except as expressly set forth in this Agreement, each party shall bear its own costs and expenses incurred pursuant to this Agreement.

For purposes of this Agreement, costs and expenses shall include, but not be limited to, reasonable attorneys' fees, accountant fees and other related professional fees and disbursements. Notwithstanding anything to the contrary in this Agreement, each of the MSCI Group and the MS Group will be responsible for its allocable portion, as determined by MS, of (i) all costs and expenses attributable to filing any Return that reflects the income, assets or operations of the MSCI Group or the MS Group, respectively and (ii) all costs and expenses incurred by MS or MSCI, respectively, in complying with the provisions of Section 12 of this Agreement.

(b) With respect to all Tax Proceedings, including any pending litigation with any Taxing Authority, costs shall be allocated in good faith by MS. Each party hereto shall be liable for its allocable portion of such costs as provided in Section 10.

**17. UK Group Relief.** Notwithstanding any agreement, arrangement or understanding to the contrary, the MS Group shall not provide UK group relief to any member of the MSCI Group for any taxable period ending after the date of this Agreement and shall not be obligated to provide UK group relief to any member of the MSCI Group for any preceding taxable period.

**18. Effectiveness; Termination and Survival.** This Agreement shall become effective upon its execution. Unless terminated earlier by mutual consent of MS and MSCI, all rights and obligations arising hereunder shall survive until they are fully effectuated or performed and, provided, further, that notwithstanding anything in this Agreement to the contrary, this Agreement shall remain in effect and its provisions shall survive for one year after the full period of all applicable statutes of limitation (giving effect to any extension, waiver or mitigation thereof) and, with respect to any claim hereunder initiated prior to the end of such period, until such claim has been satisfied or otherwise resolved.

**19. Section Headings.** The headings contained in this Agreement are inserted for convenience only and shall not constitute a part hereof or in any way affect the meaning or interpretation of this Agreement.

**20. Entire Agreement; Amendments and Waivers.**

(a) *Entire Agreement.* This Agreement contains the entire understanding of the parties hereto with respect to the subject matter contained herein. No alteration, amendment, modification, or waiver of any of the terms of this Agreement shall be valid unless made by an instrument signed by an authorized officer of each of MS and MSCI, or in the case of a waiver, by the party against whom the waiver is to be effective.

(b) *Amendments and Waivers.* No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver hereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege. This Agreement shall not be waived, amended or otherwise modified except in writing, duly executed by all of the parties hereto.

**21. Governing Law and Interpretation.** This Agreement shall be construed and enforced in accordance with the laws of the State of New York without giving effect to laws and principles relating to conflicts of law.

**22. Dispute Resolution.** In the event of any dispute relating to this Agreement, including whether a Tax liability is a liability of the MS Group or the MSCI Group, the parties shall work together in good faith to resolve such dispute within 30 days. If the parties are unable to resolve such dispute within 30 days, such dispute shall be resolved by an accounting firm whose selection shall be reasonably satisfactory to both parties and whose fees and costs shall be shared equally by MS and MSCI.

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

**24. Assignments; Third Party Beneficiaries.** Except as provided below, this Agreement shall be binding upon and shall inure only to the benefit of the parties hereto and their respective successors and assigns, by merger, acquisition of assets or otherwise (including but not limited to any successor of a party hereto succeeding to the Tax attributes of such party under applicable law). This Agreement is not intended to benefit any person other than the parties hereto and such successors and assigns, and no such other person shall be a third party beneficiary hereof. If, during the period beginning on the date hereof and ending upon the expiration of the survival period set forth in Section 17, any Person becomes a Subsidiary of MSCI, such Subsidiary shall be bound by the terms of this Agreement and MSCI shall provide evidence to MS of such Subsidiary's agreement to be bound by the terms of this Agreement.

**25. Authorization, etc.** Each of the parties hereto hereby represents and warrants that it has the power and authority to execute, deliver and perform this Agreement, that this Agreement has been duly authorized by all necessary corporate action on the part of such party, that this Agreement constitutes a legal, valid and binding obligation of each such party, and that the execution, delivery and performance of this Agreement by such party does not contravene or conflict with any provision or law or of its charter or bylaws or any agreement, instrument or order binding on such party.

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

MS on its own behalf and on behalf of the members of the MS Group.

By: \_\_\_\_\_  
Name:  
Title:

MSCI on its own behalf and on behalf of the members of the MSCI Group.

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT A**

**1. Definitions.**

“Distribution” shall mean the distribution by MS of stock of MSCI to MS shareholders in a transaction that is intended to qualify under Section 355 of the Code.

“Distribution Date” shall mean the date on which the Distribution shall be effected.

**2. Certain Representations, Covenants and Indemnities Applicable to a Distribution.**

(a) *MSCI Representations.* MSCI and each member of the MSCI Group represents, and covenants that on the Distribution Date, that there is no plan or intention:

(i) to take any action that would prevent any member of the MSCI Group conducting an active business relied upon (as designated by MS) to meet the requirements of Section 355(b) of the Code or a similar provision of state law from meeting such requirements,

(ii) to sell or otherwise dispose of any asset of MSCI or any member of the MSCI Group subsequent to the Distribution, in a manner that would result in any increased Tax liability or reduction of any Tax asset of the MS Group or any member thereof,

(iii) to take any action inconsistent with any written information and representations furnished to the IRS, or other Taxing Authority in connection with a ruling request, or to counsel in connection with any opinion being delivered by counsel with respect to the Distribution, regardless of whether such information and representations were included in the ruling or in the opinion (provided, however, that with respect to the foregoing, MS has provided MSCI with a written copy of such information and representation),

(iv) to repurchase stock of MSCI in a manner contrary to the requirements of IRS Revenue Procedure 96-30, as modified by IRS Revenue Procedure 2003-48, or in a manner contrary to any representations made in a ruling request and disclosed to MSCI,

(v) to take any action that management of MSCI knows, or should have known (as disclosed to MSCI by MS), is reasonably likely to contravene any representation made to, or an agreement entered into with, a Taxing Authority prior to the Distribution Date to which any member of the MSCI Group or the MS Group is a party, or

(vi) to enter into any negotiations, agreements, or arrangements with respect to transactions or events (including stock issuances, pursuant to the exercise of options or otherwise, option grants, the adoption of, or authorization of shares under, a stock option plan, capital contributions, or acquisitions, but not including the Distribution) which may cause the Distribution to be treated as part of a plan pursuant to which one or more Persons acquire directly or indirectly MSCI stock representing a "50-percent or greater interest" within the meaning of Section 355(d)(4) of the Code.

(b) *MSCI Covenants.* MSCI covenants to MS that, without either (i) the prior written consent of MS, (ii) a supplemental private letter ruling issued by the IRS, or (iii) an unqualified written opinion of nationally recognized tax counsel selected by MS (in the case of (ii) and (iii), satisfactory to MS in its sole discretion):

(i) during the twelve-month period following the Distribution Date, neither MSCI, nor any member of the MSCI Group conducting an active business relied upon to meet the requirements of Section 355(b) of the Code (as designated by MS) or a similar provision of state law, will liquidate, merge or consolidate with any other Person,

(ii) during the two-year period following the Distribution Date, MSCI will not sell, exchange, distribute or otherwise dispose of its assets or those of any member of the MSCI Group in a manner that would result in any increased Tax liability or reduction of any Tax asset of the MS Group or any member thereof,

(iii) following the Distribution, MSCI will, for a minimum of twelve months, continue each active business relied upon to meet the requirements of Section 355(b) of the Code (as designated by MS) or a similar provision of state law,

(iv) MSCI will not, nor will it permit any member of the MSCI Group to, take any action inconsistent with the information

and representations furnished to the IRS or other Taxing Authority in connection with a ruling request, or to counsel in connection with any opinion being delivered by counsel with respect to the Distribution, regardless of whether such information and representations were included in the ruling or in the opinion (provided, however, that with respect to the foregoing, MS has provided MSCI with a written copy of such information and representation),

(v) MSCI will not take any action that management of MSCI knows, or should have known (as disclosed to MSCI by MS), is reasonably likely to contravene any representation made to, or an agreement entered into with, a Taxing Authority prior to the Distribution Date to which any member of the MSCI Group or the MS Group is a party,

(vi) during the two-year period following the Distribution Date, MSCI will not repurchase stock of MSCI in a manner contrary to the requirements of IRS Revenue Procedure 96-30, as modified by IRS Revenue Procedure 2003-48, or in a manner contrary to the representations disclosed to MSCI and made in a ruling request,

(vii) MSCI will not, nor will it permit any member of the MSCI Group to, make or change any accounting method, amend any Return or take any Tax position on any Return, take any other action or enter into any transaction that results in any increased Tax liability or reduction of any Tax asset of the MS Group or any member thereof in respect of any pre-Distribution period,

(viii) during the two-year period following the Distribution Date, MSCI will not enter into any transaction or make any change in its equity structure (including stock issuances, pursuant to the exercise of options or otherwise, options grants, the adoption of, or authorization of shares under, a stock option plan, capital contributions, or acquisitions) which may cause the Distribution to be treated as part of a plan (or series of related transactions) pursuant to which one or more Persons acquire directly or indirectly MSCI stock representing a "50-percent or greater interest" within the meaning of Section 355(d)(4) of the Code, and

(ix) during the five-year period from the Distribution Date, MSCI will not enter into any transaction or make any change in its equity structure which may cause the Distribution to fail to satisfy the distribution of control requirement of Section 355(a)(1) of the Code.

MSCI agrees that, regardless of whether MS consents to, or receives a ruling or opinion with respect to, any action referred to in this Section, MS is to have no liability for any Tax resulting from any such action and MSCI agrees to indemnify and hold harmless the MS Group against any such Tax. MSCI shall also bear all costs incurred by MS in connection with obtaining any opinion of counsel, a supplemental private letter ruling or in connection with MS's determination of whether or not to grant any written consent required under this Section.

(c) *MSCI Indemnity.* MSCI and each member of the MSCI Group will jointly and severally indemnify MS and the members of the MS Group against, and hold them harmless from:

(i) any income tax liability of the MSCI Group as determined in accordance with this Agreement;

(ii) any liability or damage resulting from a breach by MSCI or any member of the MSCI Group of any representation or covenant made by MSCI herein;

(iii) any income tax liability (a) resulting from the Distribution that is intended to qualify as tax free to MS or its shareholders under Sections 355 and/or 368(a)(1)(D) of the Code (or similar provisions of state law) from failing to so qualify and (b) that is attributable to any action of MSCI or any member of the MSCI Group, without regard to whether MS has consented to such action; and

(iv) all liabilities, costs, expenses (including, without limitation, reasonable expenses of investigation and attorneys' fees and expenses), losses, damages, assessments, settlements or judgments arising out of or incident to the imposition, assessment or assertion of any income tax liability or damage described in (i), (ii) or (iii), including those incurred in the contest in good faith in appropriate proceedings relating to the imposition, assessment or assertion of any such income tax, liability or damage.

**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 \_\_\_\_\_ 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 Section 355 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.

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 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, or (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  
Email: frederick.bogdan@mscibarra.com  
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  
Email: marty.cohen@morganstanley.com  
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: