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

FORM 10-Q

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

For the quarterly period ended March 31, 2012

OR

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

For the transition period from _____ to _____

Commission file number 001-33812

MSCI INC.

(Exact Name of Registrant as Specified in its Charter)

Delaware
(State of Incorporation)

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

One Chase Manhattan Plaza, 44th Floor,
New York, New York
(Address of Principal Executive Offices)

10005
(Zip Code)

Registrant's telephone number, including area code: (212) 804-3900

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

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

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

Large accelerated filer	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/> (Do not check if a smaller reporting company)	Smaller reporting company	<input type="checkbox"/>

Indicate by check mark whether the Registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

As of April 30, 2012, there were 121,546,233 shares of the Registrant's class A common stock, \$0.01 par value, outstanding and no shares of Registrant's class B common stock, \$0.01 par value, outstanding.

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MSCI INC.
FORM 10-Q

FOR THE QUARTER ENDED MARCH 31, 2012

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AVAILABLE INFORMATION

MSCI Inc. files annual, quarterly and current reports, proxy statements and other information with the Securities and Exchange Commission (the “SEC”). You may read and copy any document we file with the SEC at the SEC’s public reference room at 100 F Street, NE, Washington, DC 20549. Please call the SEC at 1-800-SEC-0330 for information on the public reference room. The SEC maintains an internet site that contains annual, quarterly and current reports, proxy and information statements and other information that issuers (including MSCI Inc.) file electronically with the SEC. MSCI Inc.’s electronic SEC filings are available to the public at the SEC’s internet site, www.sec.gov.

MSCI Inc.’s internet site is www.msci.com. You can access MSCI Inc.’s Investor Relations webpage at <http://ir.msci.com>. MSCI Inc. makes available free of charge, on or through its Investor Relations webpage, its proxy statements, Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and any amendments to those reports filed or furnished pursuant to the Securities Exchange Act of 1934, as amended (the “Exchange Act”), as soon as reasonably practicable after such material is electronically filed with, or furnished to, the SEC. MSCI Inc. also makes available, through its Investor Relations webpage, via a link to the SEC’s internet site, statements of beneficial ownership of MSCI Inc.’s equity securities filed by its directors, officers, 10% or greater shareholders and others under Section 16 of the Exchange Act.

MSCI Inc. has a Corporate Governance webpage. You can access information about MSCI Inc.’s corporate governance at <http://ir.msci.com/governance.cfm>. MSCI Inc. posts the following on its Corporate Governance webpage:

- Charters for our Audit Committee, Compensation Committee and Nominating and Governance Committee;
- Corporate Governance Policies; and
- Code of Ethics and Business Conduct.

MSCI Inc.’s Code of Ethics and Business Conduct applies to all directors, officers and employees, including its Chief Executive Officer and its Chief Financial Officer. MSCI Inc. will post any amendments to the Code of Ethics and Business Conduct and any waivers that are required to be disclosed by the rules of either the SEC or the New York Stock Exchange, Inc. (“NYSE”) on its internet site. You can request a copy of these documents, excluding exhibits, at no cost, by contacting Investor Relations, One Chase Manhattan Plaza, 44th Floor, New York, NY 10005; (212) 804-1583. The information on MSCI Inc.’s internet site is not incorporated by reference into this report.

PART I

Item 1. Condensed Consolidated Financial Statements

MSCI INC.
CONDENSED CONSOLIDATED STATEMENTS OF FINANCIAL CONDITION
(in thousands, except share and per share data)

	As of	
	March 31, 2012	December 31, 2011
	(unaudited)	
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 266,022	\$ 252,211
Short-term investments	194,157	140,490
Trade receivables (net of allowances of \$767 and \$857 as of March 31, 2012 and December 31, 2011, respectively)	172,181	180,566
Deferred taxes	40,039	40,952
Prepaid taxes	16,741	38,022
Prepaid and other assets	23,992	25,702
Total current assets	713,132	677,943
Property, equipment and leasehold improvements (net of accumulated depreciation of \$65,682 and \$60,088 at March 31, 2012 and December 31, 2011, respectively)	39,710	37,623
Goodwill	1,708,585	1,708,585
Intangible assets (net of accumulated amortization of \$268,758 and \$255,579 at March 31, 2012 and December 31, 2011, respectively)	628,922	644,881
Other non-current assets	22,698	23,964
Total assets	\$3,113,047	\$3,092,996
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 166	\$ 239
Accrued compensation and related benefits	32,194	107,506
Other accrued liabilities	48,439	45,504
Current maturities of long term debt	10,342	10,339
Deferred revenue	330,050	289,217
Total current liabilities	421,191	452,805
Long term debt, net of current maturities	1,063,962	1,066,548
Deferred taxes	235,429	240,456
Other non-current liabilities	27,861	27,755
Total liabilities	1,748,443	1,787,564
Commitments and Contingencies (see Note 8)		
Shareholders' equity:		
Preferred stock (par value \$0.01; 100,000,000 shares authorized; no shares issued)	—	—
Common stock (par value \$0.01; 500,000,000 class A shares and 250,000,000 class B shares authorized; 123,073,966 and 122,713,226 class A shares issued and 121,502,892 and 121,212,191 class A shares outstanding at March 31, 2012 and December 31, 2011, respectively; no class B shares issued and outstanding at March 31, 2012 and December 31, 2011, respectively)	1,231	1,227
Treasury shares, at cost (1,571,074 and 1,501,035 shares at March 31, 2012 and December 31, 2011, respectively)	(52,136)	(49,827)
Additional paid in capital	1,011,036	995,665
Retained earnings	407,427	363,461
Accumulated other comprehensive income (loss)	(2,954)	(5,094)
Total shareholders' equity	1,364,604	1,305,432
Total liabilities and shareholders' equity	\$3,113,047	\$3,092,996

See Notes to Unaudited Condensed Consolidated Financial Statements

MSCI INC.
CONDENSED CONSOLIDATED STATEMENTS OF INCOME
(in thousands, except per share data)

	Three Months Ended	
	March 31, 2012	March 31, 2011
	(unaudited)	
Operating revenues	\$ 229,052	\$ 223,298
Cost of services	72,291	70,218
Selling, general and administrative	55,436	51,418
Restructuring	(29)	4,431
Amortization of intangible assets	15,959	16,692
Depreciation and amortization of property, equipment and leasehold improvements	4,416	5,110
Total operating expenses	148,073	147,869
Operating income	80,979	75,429
Interest income	(223)	(143)
Interest expense	12,355	16,587
Other expense	608	5,641
Other expense (income), net	12,740	22,085
Income before provision for income taxes	68,239	53,344
Provision for income taxes	24,273	19,823
Net income	\$ 43,966	\$ 33,521
Earnings per basic common share	\$ 0.36	\$ 0.28
Earnings per diluted common share	\$ 0.35	\$ 0.27
Weighted average shares outstanding used in computing earnings per share		
Basic	121,754	120,282
Diluted	123,113	122,013

See Notes to Unaudited Condensed Consolidated Financial Statements

MSCI INC.
CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME
(in thousands)

	<u>Three Months Ended</u>	
	<u>March 31,</u> <u>2012</u>	<u>March 31,</u> <u>2011</u>
	(unaudited)	
Net income	\$43,966	\$33,521
Other comprehensive income (loss):		
Foreign currency translation adjustments	3,529	1,873
Income tax effect	(1,390)	(732)
Foreign currency translation adjustments, net	<u>2,139</u>	<u>1,141</u>
Unrealized gains (losses) on cash flow hedges	28	(8)
Income tax effect	(33)	3
Unrealized gains (losses) on cash flow hedges, net	<u>(5)</u>	<u>(5)</u>
Unrealized losses on available-for-sale securities	(9)	—
Income tax effect	3	—
Unrealized losses on available-for-sale securities, net	<u>(6)</u>	<u>—</u>
Pension and other post-retirement adjustments	17	(4)
Income tax effect	(5)	—
Pension and other post-retirement adjustments, net	<u>12</u>	<u>(4)</u>
Other comprehensive income, net of tax	<u>2,140</u>	<u>1,132</u>
Comprehensive income	<u>\$46,106</u>	<u>\$34,653</u>

See Notes to Unaudited Condensed Consolidated Financial Statements

MSCI INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

	Three Months Ended	
	March 31, 2012	March 31, 2011
	(unaudited)	
Cash flows from operating activities		
Net income	\$ 43,966	\$ 33,521
Adjustments to reconcile net income to net cash provided by operating activities:		
Amortization of intangible assets	15,959	16,692
Share-based expense	5,843	8,454
Depreciation and amortization of property, equipment and leasehold improvements	4,416	5,110
Amortization of debt origination fees	1,268	1,847
Deferred taxes	(5,687)	12,063
Amortization of discount on long term debt	229	340
Excess tax benefits from share-based compensation	(1,262)	(2,577)
Other non-cash adjustments	(74)	1,131
Changes in assets and liabilities, net of assets and liabilities acquired:		
Trade receivables	8,574	(46,949)
Prepaid income taxes	22,596	(6,857)
Prepaid and other assets	1,761	(1,475)
Accounts payable	(70)	271
Deferred revenue	40,951	14,344
Accrued compensation and related benefits	(71,230)	(61,747)
Other accrued liabilities	1,392	1,035
Other	875	(1,081)
Net cash provided by (used in) operating activities	<u>69,507</u>	<u>(25,878)</u>
Cash flows from investing activities		
Proceeds from redemption of short-term investments	22,695	49,908
Purchase of short-term investments	(76,331)	(27,198)
Capital expenditures	(4,292)	(3,835)
Net cash (used in) provided by investing activities	<u>(57,928)</u>	<u>18,875</u>
Cash flows from financing activities		
Proceeds from borrowing	—	1,125,000
Repayment of long term debt	(2,812)	(1,268,625)
Repurchase of treasury shares	(2,309)	(2,896)
Proceeds from exercise of stock options	3,343	6,810
Excess tax benefits from share-based compensation	1,262	2,577
Net cash used in financing activities	<u>(516)</u>	<u>(137,134)</u>
Effect of exchange rate changes	<u>2,748</u>	<u>2,354</u>
Net increase (decrease) in cash	<u>13,811</u>	<u>(141,783)</u>
Cash and cash equivalents, beginning of period	<u>252,211</u>	<u>269,423</u>
Cash and cash equivalents, end of period	<u>\$266,022</u>	<u>\$ 127,640</u>
Supplemental disclosure of cash flow information:		
Cash paid for interest	<u>\$ 10,863</u>	<u>\$ 13,581</u>
Cash paid for income taxes	<u>\$ 7,123</u>	<u>\$ 14,581</u>
Supplemental disclosure of non-cash investing activities:		
Property, equipment and leasehold improvements in other accrued liabilities	<u>\$ 3,256</u>	<u>\$ 721</u>

See Notes to Unaudited Condensed Consolidated Financial Statements

MSCI INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)

1. INTRODUCTION AND BASIS OF PRESENTATION

MSCI Inc. together with its wholly-owned subsidiaries (the “Company” or “MSCI”) is a global provider of investment decision support tools worldwide, including indices, portfolio risk and performance analytics and corporate governance products and services. The Company’s flagship products are its global equity indices and environmental, social and governance (“ESG”) products marketed under the MSCI brand, its portfolio risk and performance analytics covering global equity and fixed income markets marketed under the Barra brand, its market and credit risk analytics marketed under the RiskMetrics and Barra brands, its governance research and outsourced proxy voting and reporting services marketed under the ISS brand and its valuation models and risk management software for the energy and commodities markets marketed under the FEA brand.

MSCI operates as two segments, the Performance and Risk business and the Governance business. The Performance and Risk business is a global provider of investment decision support tools, including indices, portfolio risk and performance analytics, credit analytics and ESG products. The Governance business is a provider of corporate governance and specialized financial research and analysis services to institutional shareholders and corporations around the world. (See Note 13, “Segment Information,” for further information about MSCI’s operating segments).

Basis of Presentation and Use of Estimates

These unaudited condensed consolidated financial statements include the accounts of the Company and its subsidiaries and include all adjustments of a normal, recurring nature necessary to present fairly the financial condition as of March 31, 2012 and December 31, 2011, the results of operations and comprehensive income for the three months ended March 31, 2012 and 2011 and cash flows for the three months ended March 31, 2012 and 2011. The accompanying condensed consolidated financial statements should be read in conjunction with the audited consolidated financial statements and notes included in MSCI’s Annual Report on Form 10-K for the year ended December 31, 2011. The condensed consolidated financial statement information as of December 31, 2011 has been derived from the 2011 audited consolidated financial statements. The results of operations for interim periods are not necessarily indicative of results for the entire year.

The Company’s condensed consolidated financial statements are prepared in accordance with accounting principles generally accepted in the United States of America (“GAAP”). These accounting principles require the Company to make certain estimates and judgments that can affect the reported amounts of assets and liabilities as of the date of the condensed consolidated financial statements, as well as the reported amounts of revenue and expenses during the periods presented. Significant estimates and assumptions made by management include the deferral and recognition of revenue, research and development and software capitalization, the allowance for doubtful accounts, impairment of long-lived assets, accrued compensation, income taxes and other matters that affect the condensed consolidated financial statements and related disclosures. The Company believes that estimates used in the preparation of these condensed consolidated financial statements are reasonable; however, actual results could differ materially from these estimates.

Inter-company balances and transactions are eliminated in consolidation.

Adjustment to Revenues

During the three months ended March 31, 2012, as a result of a one-time adjustment, the Company recorded a \$5.2 million cumulative revenue reduction to correct an error related to revenues previously reported through December 31, 2011. The effect of recording this adjustment in the first quarter resulted in a one-time decrease to the energy and commodity analytics products revenues in the Company’s Condensed Consolidated Statement of Income and an increase in deferred revenues in the Company’s Condensed Consolidated Statement of Financial Condition. It was determined that under Accounting Standards Codification (“ASC”) Subtopic 985-605, “*Software Revenue Recognition*,” the Company incorrectly established vendor specific objective evidence for certain energy and commodity analytics products and as a result should not have been recognizing a substantial portion of the revenue immediately upon delivery or renewal of a time based subscription license, the terms of which are generally one year. Rather, the entire license fee should have been recognized ratably over the term of the license. As such, the Company made the cumulative adjustment effective January 1, 2012 and started recognizing revenue related to all contracts still in effect as of this date ratably over the remainder of the term. The Company will recognize revenue ratably over the contract term for any new contracts entered into on January 1, 2012 and thereafter. Based upon an evaluation of all relevant factors, management believes the correcting adjustment did not have a material impact on the Company’s previously reported results and, accordingly, has determined that restatement of previously issued financial statements is not necessary.

MSCI INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)

Concentrations

The Company licenses its products and services primarily to investment managers principally in the United States, Europe and Asia. The Company evaluates the credit of its customers and does not require collateral. The Company maintains an allowance on customer accounts where estimated losses may result from the inability of its customers to make required payments.

Financial instruments that may potentially subject the Company to concentrations of credit risk consist principally of cash deposits and short-term investments. At March 31, 2012 and December 31, 2011, cash and cash equivalents held primarily on deposit were \$266.0 million and \$252.2 million, respectively. At March 31, 2012, and December 31, 2011, the Company had invested \$194.2 million and \$140.5 million, respectively, in debt securities with maturity dates ranging from 91 to 360 days from the date of purchase.

For the three months ended March 31, 2012 and 2011, no single customer accounted for 10.0% or more of the Company's operating revenues.

2. RECENT ACCOUNTING STANDARDS UPDATES

In May 2011, the FASB issued Accounting Standards Update No. 2011-04, "Fair Value Measurements (Topic 820): Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRSs," or ASU 2011-04. ASU 2011-04 changes the wording used to describe many of the requirements in U.S. GAAP for measuring fair value and for disclosing information about fair value measurements to ensure consistency between U.S. GAAP and International Financial Reporting Standards ("IFRS"). ASU 2011-04 also expands the disclosures for fair value measurements that are estimated using significant unobservable (Level 3) inputs. This new guidance is to be applied prospectively for interim and annual periods beginning after December 15, 2011. The adoption of ASU 2011-04 did not have a material impact on the Company's condensed consolidated financial statements.

3. RESTRUCTURING

During the year ended November 30, 2010, MSCI's management approved, committed to and initiated a plan to restructure the Company's operations due to its acquisition of RiskMetrics. Restructuring includes expenses associated with the elimination of overlapping positions and duplicative occupancy costs and the termination of overlapping vendor contracts. The portion of the restructuring plan associated with the elimination of overlapping positions was substantially completed in the first quarter of 2011 and the elimination of leases or vendor contracts was substantially completed in the year ended December 31, 2011.

The Company recorded less than \$0.1 million of restructuring benefits during the three months ended March 31, 2012, relating to adjustments made for costs previously accrued for the elimination of overlapping positions. The Company recorded \$4.4 million of restructuring expenses in connection with the Restructuring Plan during the three months ended March 31, 2011. Of this amount, less than \$0.1 million was related to the accelerated vesting of share-based compensation awards triggered by the elimination of overlapping positions and \$0.7 million was related to the write-off of assets associated with the exit of certain leases. The accelerated vesting of share-based compensation awards is not accounted for as a restructuring liability under the line item "Other accrued liabilities" but is instead recorded under the line item "Additional paid in capital" in the Company's Condensed Consolidated Statement of Financial Condition.

During the three months ended March 31, 2011, \$2.3 million of the restructuring expenses were recorded under the Company's Performance and Risk operating segment and \$2.1 million were recorded under the Company's Governance operating segment. From the initiation of the restructuring plan through March 31, 2012, \$8.6 million of the cumulative restructuring expenses were recorded under the Company's Performance and Risk operating segment and \$3.9 million of the cumulative restructuring expenses were recorded under the Company's Governance operating segment.

The table below summarizes the accrual and charges incurred with respect to the Company's Restructuring Plan that are included in the line items "Other accrued liabilities" in the Company's Condensed Consolidated Statement of Financial Condition as of December 31, 2011 and March 31, 2012:

<u>(in thousands)</u>	<u>Severance</u>	<u>Lease termination</u>	<u>Total</u>
Accrued Balance, December 31, 2011	\$ 72	\$ 667	\$ 739
Restructuring costs	(29)	—	(29)
Cash payments	(16)	(153)	(169)
Accrued Balance, March 31, 2012	<u>\$ 27</u>	<u>\$ 514</u>	<u>\$ 541</u>

MSCI INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)

4. EARNINGS PER COMMON SHARE

Basic earnings per common share is computed by dividing income available to MSCI common shareholders by the weighted average number of common shares outstanding during the period. Common shares outstanding include common stock and vested restricted stock unit awards where recipients have satisfied either the explicit vesting terms or retirement-eligible requirements. Diluted earnings per common share reflects the assumed conversion of all dilutive securities. There were no stock options excluded from the computation of diluted EPS for the three months ended March 31, 2012 or 2011 because of their anti-dilutive effect.

The Company computes EPS using the two-class method and determines whether instruments granted in share-based payment transactions are participating securities. The following table presents the computation of basic and diluted EPS:

	<u>Three Months Ended</u>	
	<u>March 31,</u> <u>2012</u>	<u>March 31,</u> <u>2011</u>
(in thousands, except per share amounts)		
Net income	\$ 43,966	\$ 33,521
Less: Allocations of earnings to unvested restricted stock units ⁽¹⁾	<u>(271)</u>	<u>(319)</u>
Earnings available to MSCI common shareholders	<u>\$ 43,695</u>	<u>\$ 33,202</u>
Basic weighted average common shares outstanding	<u>121,754</u>	<u>120,282</u>
Basic weighted average common shares outstanding	121,754	120,282
Effect of dilutive securities:		
Stock options	<u>1,359</u>	<u>1,731</u>
Diluted weighted average common shares outstanding	<u>123,113</u>	<u>122,013</u>
Earnings per basic common share	<u>\$ 0.36</u>	<u>\$ 0.28</u>
Earnings per diluted common share	<u>\$ 0.35</u>	<u>\$ 0.27</u>

(1) The restricted stock units participate in all of the earnings of the Company in the computation of basic EPS and, therefore, the restricted stock units are not included as incremental shares in the diluted EPS computation.

MSCI INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)

5. SHORT-TERM INVESTMENTS

The fair value and gross unrealized gains and losses of securities available-for-sale as of the dates indicated were as follows:

<u>(in thousands)</u>	<u>Amortized Cost plus Accrued Interest</u>	<u>Gross Unrealized Gains</u>	<u>Gross Unrealized Losses</u>	<u>Estimated Fair Value</u>
March 31, 2012				
Debt securities available-for-sale				
U.S. Treasury securities	\$ 191,462	\$ 11	\$ (16)	\$ 191,457
Commercial paper	2,700	—	—	2,700
Total	<u>\$ 194,162</u>	<u>\$ 11</u>	<u>\$ (16)</u>	<u>\$ 194,157</u>
December 31, 2011				
Debt securities available-for-sale				
U.S. Treasury securities	\$ 135,485	\$ 9	\$ (2)	\$ 135,492
Tradable certificates of deposit	5,001	—	(3)	4,998
Total	<u>\$ 140,486</u>	<u>\$ 9</u>	<u>\$ (5)</u>	<u>\$ 140,490</u>

Unrealized Losses on Investments

Investments with continuous unrealized losses for less than 12 months and their related fair values at March 31, 2012 and December 31, 2011 were as follows:

<u>(in thousands)</u>	As of			
	<u>March 31, 2012</u>		<u>December 31, 2011</u>	
	<u>Total Fair Value</u>	<u>Total Unrealized Losses</u>	<u>Total Fair Value</u>	<u>Total Unrealized Losses</u>
U.S. Treasury securities	\$ 123,075	\$ (16)	\$ 50,056	\$ (2)
Commercial paper	—	—	—	—
Tradable certificates of deposit	—	—	2,695	(3)
Total	<u>\$ 123,075</u>	<u>\$ (16)</u>	<u>\$ 52,751</u>	<u>\$ (5)</u>

Evaluating Investments for Other-than-Temporary Impairments

If the fair values of the Company's debt security investments are less than the amortized costs at the balance sheet date, the Company assesses whether the impairments are other than temporary. As the Company currently invests primarily in U.S. Treasury securities with a short duration (one year or less), it would take a significant decline in fair value and U.S. economic conditions for the Company to determine that these investments are other than temporarily impaired.

Additionally, management assesses whether it intends to sell or would more-likely-than-not not be required to sell the investment before the expected recovery of the cost basis. Management has asserted that it believes it is more-likely-than-not that it will not be required to sell the investment before recovery of the cost basis.

MSCI INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)

As of March 31, 2012 and December 31, 2011, no other-than-temporary impairment had been recorded on any of the Company's investments.

6. PROPERTY, EQUIPMENT AND LEASEHOLD IMPROVEMENTS

Property, equipment and leasehold improvements at March 31, 2012 and December 31, 2011 consisted of the following:

	As of	
	March 31, 2012	December 31, 2011
	(in thousands)	
Computer & related equipment	\$ 72,348	\$ 70,170
Furniture & fixtures	5,310	4,868
Leasehold improvements	24,688	22,219
Work-in-process	3,046	454
Subtotal	105,392	97,711
Accumulated depreciation and amortization	(65,682)	(60,088)
Property, equipment and leasehold improvements, net	<u>\$ 39,710</u>	<u>\$ 37,623</u>

Depreciation and amortization expense of property, equipment and leasehold improvements was \$4.4 million and \$5.1 million for the three months ended March 31, 2012 and 2011, respectively.

7. GOODWILL AND INTANGIBLE ASSETS

Goodwill.

The Company carries goodwill as a result of its acquisitions of Barra Inc. ("Barra"), RiskMetrics Group, Inc. ("RiskMetrics") and Measurisk, LLC ("Measurisk"). The Company's goodwill at March 31, 2012 and December 31, 2011 was \$1,708.6 million. Approximately \$1,477.5 million of the goodwill was allocated to the Performance and Risk segment and \$231.1 million of the goodwill was allocated to the Governance segment.

Intangible Assets.

Intangible assets consist of those definite-lived intangibles from the acquisitions of Barra in June 2004, RiskMetrics in June 2010 and Measurisk in July 2010. The Company amortizes definite-lived intangible assets over their estimated useful lives. Amortizable intangible assets are tested for impairment when impairment indicators are present, and, if impaired, written down to fair value based on either discounted cash flows or appraised values. No impairment of intangible assets has been identified during any of the periods presented. The Company has no indefinite-lived intangibles.

Amortization expense related to intangible assets was \$16.0 million and \$16.7 million for the three months ended March 31, 2012 and 2011, respectively.

The gross carrying amounts and accumulated amortization totals related to the Company's identifiable intangible assets are as follows:

	Gross Carrying Value	Accumulated Amortization	Net Carrying Value
	(in thousands)		
As of March 31, 2012			
Customer relationships	\$459,010	\$ (68,891)	\$390,119
Trademarks/trade names	243,440	(52,556)	190,884
Technology/software	191,430	(146,150)	45,280
Proprietary process	3,800	(1,161)	2,639
Total intangible assets	<u>\$897,680</u>	<u>\$ (268,758)</u>	<u>\$628,922</u>

MSCI INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)

	<u>Gross Carrying Value</u>	<u>Accumulated Amortization (in thousands)</u>	<u>Net Carrying Value</u>
As of December 31, 2011			
Customer relationships	\$459,010	\$ (61,003)	\$398,007
Trademarks/trade names	243,440	(49,336)	194,104
Technology/software	191,430	(141,457)	49,973
Proprietary process	3,800	(1,003)	2,797
Non-compete agreements	2,780	(2,780)	—
Total intangible assets	<u>\$900,460</u>	<u>\$ (255,579)</u>	<u>\$644,881</u>

The estimated amortization expense for succeeding years is presented below:

<u>Fiscal Year</u>	<u>Amortization Expense (in thousands)</u>
Remainder of 2012	\$ 47,000
2013	53,087
2014	52,864
2015	52,787
2016	50,649
2017	44,566
Thereafter	<u>327,969</u>
Total	<u>\$ 628,922</u>

8. COMMITMENTS AND CONTINGENCIES

Legal matters. From time to time, the Company is party to various litigation matters incidental to the conduct of its business. The Company is not presently party to any legal proceedings the resolution of which the Company believes would have a material impact on its business, operating results, financial condition or cash flows.

Leases. The Company leases facilities under non-cancelable operating lease agreements. The terms of certain lease agreements provide for rental payments on a graduated basis. The Company recognizes rent expense on the straight-line basis over the lease period and has accrued for rent expense incurred but not paid. Rent expense for the three months ended March 31, 2012 and 2011 was \$6.1 million and \$4.5 million, respectively.

During the three months ended March 31, 2012, the Company leased office space in New York, New York at two locations, One Chase Manhattan Plaza and 88 Pine Street, with combined annual base rents of \$3.0 million. The lease at One Chase Manhattan Plaza ends in August 2012 and the lease at 88 Pine Street ends in December 2014.

On September 16, 2011, the Company entered into a new lease agreement with 7 World Trade Center, LLC, pursuant to which the Company will rent approximately 126,000 square feet of office space for its new corporate headquarters at 7 World Trade Center, New York, New York (the "Lease"). The Lease commenced on February 1, 2012 (the "Commencement Date") and the Company expects to begin occupying its new corporate headquarters in the 7 World Trade Center offices beginning in the second half of the year ending December 31, 2012.

The Lease is initially scheduled to expire on February 28, 2033, subject to the Company's option to renew the Lease for an additional ten years after the initial expiration date. The Company also has the option to terminate the Lease early on

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February 1, 2028, subject to compliance with the terms and conditions of the Lease, including the payment of a termination fee. The aggregate rent over the life of the Lease is approximately \$170.1 million plus certain customary expenses. From the Commencement Date through and including January 31, 2018, the day preceding the fifth anniversary of February 1, 2013 (the “Rent Commencement Date”), the annual rent paid will be approximately \$7.3 million. Thereafter, the annual rent to be paid increases 10% on each of the fifth, tenth and fifteenth anniversaries of the Rent Commencement Date.

Long term debt. On June 1, 2010, the Company entered into a senior secured credit agreement with Morgan Stanley Senior Funding, Inc., as administrative agent, Morgan Stanley & Co. Incorporated, as collateral agent, and the other lenders party thereto, which was comprised of (i) a \$1,275.0 million six-year term loan facility (the “2010 Term Loan”) and (ii) a \$100.0 million five-year revolving credit facility, which included a \$25.0 million letter of credit subfacility and a \$10.0 million swingline loan subfacility (the “Revolving Credit Facility” and together with the 2010 Term Loan, the “2010 Credit Facility”). The Company was required to repay 1.00% of the principal of the 2010 Term Loan per year in quarterly installments. The 2010 Credit Facility also contained a number of mandatory prepayment requirements, including a requirement to repay a specified amount of the 2010 Term Loan annually from a portion of the Company’s excess cash flows (as defined in the 2010 Credit Facility, which varied based on the Company’s leverage ratio). Any remaining principal of the 2010 Term Loan was to be payable on the final maturity date of the facility. In February 2011, the Company made a prepayment of \$56.0 million on the 2010 Term Loan from its excess cash flows.

On March 14, 2011, MSCI completed the repricing of the 2010 Credit Facility pursuant to Amendment No. 2 to the 2010 Credit Facility (“Amendment No. 2”). Amendment No. 2 provided for the incurrence of a new senior secured loan (the “2011 Term Loan”) in an aggregate principal amount of \$1,125.0 million. The proceeds of the 2011 Term Loan, together with \$87.6 million of cash on hand, were used to repay the remaining \$1,212.6 million outstanding balance of the 2010 Term Loan in full. The 2011 Term Loan matures in March 2017. Amendment No. 2 decreased the interest rate applicable to the 2011 Term Loan from the London Interbank Offered Rate (“LIBOR”) plus 3.25% (with a leverage-based stepdown) to LIBOR plus 2.75% (with a leverage-based stepdown) and reduced the LIBOR floor applicable to the 2011 Term Loan from 1.50% to 1.00%. Prepayments or amendments of the 2011 Term Loan that constitute a “repricing transaction” (as defined in Amendment No. 2) were subject to a premium of 1.00% of the 2011 Term Loan if prepaid or amended on or prior to March 14, 2012. Prepayments and repricings made after March 14, 2012 will not be subject to premium or penalty. For unused credit under the revolving credit facility, the Company pays an annual 0.75% non-usage fee. The Company incurred \$6.1 million in fees associated with the repricing which are reflected in “Other expense (income)” on the Company’s Condensed Consolidated Statement of Income for the three months ended March 31, 2011.

The obligations under the 2010 Credit Facility, as amended, are guaranteed by each of our direct and indirect wholly-owned domestic subsidiaries, subject to limited exceptions. The obligations under the 2010 Credit Facility, as amended, are secured by a lien on substantially all of the equity interests of MSCI’s present and future domestic subsidiaries, up to 65% of the equity interests of MSCI’s first-tier foreign subsidiaries, and substantially all of MSCI’s and MSCI’s domestic subsidiaries’ present and future property and assets, subject to certain exceptions.

In connection with entering into the 2010 Credit Facility, the Company recorded deferred financing fees which have remaining amortizable lives of three to five years. The Company amortized \$1.3 million and \$1.8 million of deferred financing fees associated with the 2010 Credit Facility in interest expense during the three months ended March 31, 2012 and 2011, respectively. At March 31, 2012, \$23.5 million of the deferred financing fees remain unamortized, \$5.0 million of which is included in “Prepaid and other assets” and \$18.5 million of which is included in “Other non-current assets” on the Company’s Condensed Consolidated Statement of Financial Condition.

Current maturities of long term debt at March 31, 2012 was \$10.3 million, net of a \$0.9 million discount. Long term debt, net of current maturities at March 31, 2012 was \$1,064.0 million, net of a \$3.5 million discount. Approximately \$0.2 million of the debt discount associated with the 2010 Credit Facility was amortized in interest expense during the three months ended March 31, 2012.

Current maturities of long term debt at December 31, 2011 was \$10.3 million, net of a \$0.9 million discount. Long term debt, net of current maturities at December 31, 2011 was \$1,066.6 million, net of a \$3.8 million discount.

At March 31, 2012 and December 31, 2011, the fair market value of the Company’s debt obligations were \$1,078.8 million and \$1,089.7 million, respectively. The fair market value is determined in accordance with accounting standards related to the determination of fair value as discussed in Note 9, “Fair Value Measures,” and represents Level 2 valuations. We utilize the market approach and obtain security pricing from a vendor who uses broker quotes and third-party pricing services to determine fair values.

Interest Rate Swaps and Derivative Instruments. The Company is exposed to certain risks arising from both its business operations and economic conditions. The Company principally manages its exposures to a wide variety of business and operational risks through management of its core business activities. The Company manages economic risks, including

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interest rate, liquidity, and credit risk primarily by managing the amount, sources, and duration of its debt funding and the use of derivative financial instruments. Specifically, the Company enters into derivative financial instruments to manage exposures that arise from business activities that result in the receipt or payment of future known and uncertain cash amounts, the value of which are determined by interest rates. The Company's derivative financial instruments are used to manage differences in the amount, timing, and duration of the Company's known or expected cash receipts and its known or expected cash payments principally related to the Company's investments and borrowings. During the three months ended March 31, 2012, the Company made the accounting policy election to apply the exception available in ASC paragraph 820-10-35-18D for measuring counterparty credit risk for all of its derivative transactions subject to master netting arrangements.

The Company's objectives in using interest rate derivatives are to add stability to interest expense and to manage its exposure to interest rate movements. To accomplish this objective, the Company primarily uses interest rate swaps as part of its interest rate risk management strategy. During the three months ended March 31, 2012, such derivatives were used to hedge the variable cash flows associated with existing variable-rate debt. As a result of the repayment of the 2010 Term Loan on March 14, 2011, the Company discontinued prospective hedge accounting on its then-existing interest rate swaps as they no longer met hedge accounting requirements. The Company will continue to report the net loss related to the discontinued cash flow hedges in Other comprehensive income and is expected to reclassify this amount into earnings during the contractual term of the swap agreements. On March 22, 2011, the Company terminated its then-existing interest rate swaps and simultaneously entered into new interest rate swaps to hedge its newly issued variable-rate debt. As of March 31, 2012, the Company had two outstanding interest rate swaps with a combined notional principal amount of \$418.7 million that were designated as cash flow hedges of interest rate risk.

The effective portion of changes in the fair value of derivatives designated and that qualify as cash flow hedges is recorded in Accumulated other comprehensive income and is subsequently reclassified into earnings in the period that the hedged forecasted transaction affects earnings. The ineffective portion of the change in fair value of the derivatives is recognized directly in earnings. Amounts reported in accumulated other comprehensive income related to derivatives will be reclassified to interest expense as interest payments are made on the Company's variable-rate debt. During the next twelve months, the Company estimates that an additional \$2.4 million will be reclassified as an increase to interest expense.

The following table presents the fair values of the Company's derivative instruments and the location in which they are presented on the Company's Condensed Consolidated Statements of Financial Condition:

<u>(In thousands)</u>	<u>Condensed Consolidated Statements of Financial Condition Location</u>	<u>As of March 31, 2012</u>	<u>As of December 31, 2011</u>
Liability derivatives:			
Derivatives designated as hedging instruments:			
Interest rate swaps	Other accrued liabilities	\$ (2,483)	\$ (2,387)

The following tables present the effect of the Company's financial derivatives and the location in which they are presented on the Company's Condensed Consolidated Statements of Financial Condition and Condensed Consolidated Statements of Income:

<u>(In thousands)</u>	<u>Amount of Gain or (Loss) Recognized in Accumulated Other Comprehensive Income on Derivative (Effective Portion) for the Three Months Ended March 31,</u>		<u>Location of Gain or (Loss) Reclassified from Accumulated Other Comprehensive Income into Income (Effective Portion)</u>	<u>Amount of Gain or (Loss) Reclassified from Accumulated Other Comprehensive Income into Income (Effective Portion) for the Three Months Ended March 31,</u>		<u>Location of Gain or (Loss) Recognized in Income on Derivative (Ineffective Portion and Amount Excluded from Effectiveness Testing)</u>	<u>Amount of Gain or (Loss) Recognized in Income on Derivative (Ineffective Portion and Amount Excluded from Effectiveness Testing) for the Three Months Ended March 31</u>	
	<u>2012</u>	<u>2011</u>		<u>2012</u>	<u>2011</u>		<u>2012</u>	<u>2011</u>
	<u>Derivatives in Cash Flow Hedging Relationships</u>							
Interest rate swaps	\$ (617)	\$ (368)	Interest expense	\$ (588)	\$ (362)	Interest expense	\$ —	\$ 35

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Credit-risk-related contingent features. The Company has agreements with each of its derivative counterparties that contain a provision where if the Company defaults on any of its indebtedness, including a default where repayment of the indebtedness has not been accelerated by the lender, then the Company could also be declared in default on its derivative obligations. As of March 31, 2012, the termination value of derivatives in a net liability position, which includes accrued interest but excludes any adjustment for nonperformance risk, related to these agreements was \$2.8 million. As of March 31, 2012, the Company has not posted any collateral related to these agreements. If the Company breaches any of these provisions, it could be required to settle its obligations under the agreements at their termination value.

9. FAIR VALUE MEASURES

The following table summarizes the Company's financial assets and liabilities measured at fair value on a recurring basis as of March 31, 2012:

<u>Description</u>	<u>Balance as of March 31, 2012</u>	<u>Quoted Prices in Active Markets for Identical Assets (Level 1)</u> (in thousands)	<u>Significant Other Observable Inputs (Level 2)</u>
Assets:			
Cash equivalents	\$ —	\$ —	\$ —
Short-term investments:			
U.S. Treasury securities	191,457	—	191,457
Commercial paper	2,700	—	2,700
Total short-term investments	194,157	—	194,157
Total financial assets	<u>\$ 194,157</u>	<u>\$ —</u>	<u>\$ 194,157</u>
Liabilities:			
Interest rate swaps	<u>\$ 2,483</u>	<u>\$ —</u>	<u>\$ 2,483</u>

The following table summarizes the Company's financial assets and liabilities measured at fair value on a recurring basis as of December 31, 2011:

<u>Description</u>	<u>Balance as of December 31, 2011</u>	<u>Quoted Prices in Active Markets for Identical Assets (Level 1)</u> (in thousands)	<u>Significant Other Observable Inputs (Level 2)</u>
Assets:			
Cash equivalents	\$ 27,000	\$ —	\$ 27,000
Short-term investments:			
U.S. Treasury securities	135,492	—	135,492
Tradable certificates of deposit	4,998	—	4,998
Total short-term investments	140,490	—	140,490
Total financial assets	<u>\$ 167,490</u>	<u>\$ —</u>	<u>\$ 167,490</u>
Liabilities:			
Interest rate swaps	<u>\$ 2,387</u>	<u>\$ —</u>	<u>\$ 2,387</u>

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The Company's financial assets and liabilities are valued using market prices on both active markets (Level 1) and less active markets (Level 2). The Company did not have any transfers between Level 1 and Level 2 fair value measurements during the periods presented. The Company does not hold any financial instruments that would be valued using Level 3 inputs as of the periods presented.

The Company's cash equivalents consist of U.S. Treasury securities, tradable certificates of deposit, commercial paper and state and municipal securities with maturities of 90 days or less from the date of purchase. The Company's short-term investments consist of U.S. Treasury securities, tradable certificates of deposit, commercial paper and state and municipal securities and are classified within Level 2, as there is not an active market for these securities, but the market pricing data used to calculate the value of the instruments are derived from similar securities traded in active markets.

The Company's interest rate swaps are classified within Level 2, as they are valued using pricing models that take into account the contract terms as well as multiple observable inputs where applicable, such as equity prices, interest rate yield curves, option volatility and currency rates.

10. EMPLOYEE BENEFITS

The Company sponsors a 401(k) plan for eligible U.S. employees and defined contribution and defined benefit pension plans that cover substantially all of its non-U.S. employees. For the three months ended March 31, 2012 and 2011, costs relating to 401(k) and pension and post-retirement benefit expenses were \$6.5 million and \$5.1 million, respectively. Amounts included in cost of services were \$4.0 million and \$3.3 million for the three months ended March 31, 2012 and 2011, respectively. Amounts included in selling, general and administrative expense related to these pension and post-retirement expenses for the three months ended March 31, 2012 and 2011 were \$2.5 million and \$1.8 million, respectively.

401(k) and Other Defined Contribution Plans. Eligible employees may participate in the MSCI 401(k) plan (or any other regional defined contribution plan sponsored by MSCI) immediately upon hire. Eligible employees receive 401(k) and other defined contribution plan matching contributions and, in the case of the MSCI 401(k) plan, an additional Company contribution of 3% of the employees' cash compensation, which is subject to vesting and certain other limitations. The Company's expenses associated with the 401(k) plan and other defined contribution plans were \$6.0 million and \$4.6 million for the three months ended March 31, 2012 and 2011, respectively.

Net Periodic Benefit Expense. Net periodic benefit expense related to defined benefit pension plans was \$0.5 million for both the three months ended March 31, 2012 and 2011.

11. SHARE-BASED COMPENSATION

On November 6, 2007, the Company's Board of Directors approved the award of founders grants to its employees in the form of restricted stock units and/or options ("Founders Grant Award"). The restricted stock units and options vested over a four-year period beginning from the November 14, 2007 grant date, with 50% becoming vested on November 14, 2009, 25% becoming vested on November 14, 2010 and 25% becoming vested on November 14, 2011.

On December 16, 2008, the Company, as a component of the 2008 annual bonus, awarded certain of its employees with a grant in the form of restricted stock units ("2008 Bonus Award"). The aggregate value of the grants was approximately \$9.5 million of restricted stock units. The restricted stock units vest one-third per year over a three-year period. Approximately \$4.2 million of this grant was awarded to retirement-eligible employees under the award terms. Based on interpretive guidance related to ASC Subtopic 718-10, the Company accrues the estimated cost of these awards over the course of the fiscal year in which the award is earned. As such, the Company accrued the estimated cost of the 2008 Bonus Award related to retirement-eligible employees over the 2008 fiscal year. The final tranche of the 2008 Bonus Award vested on January 9, 2012.

On December 16, 2009, the Company, as a component of the 2009 annual bonus, awarded certain of its employees with a grant in the form of restricted stock units ("2009 Bonus Award"). The aggregate value of the grants was approximately \$13.2 million of restricted stock units. The restricted stock units vest over a three-year period, with one-third vesting on December 20, 2010, December 19, 2011 and December 17, 2012, respectively. Approximately \$5.1 million of this grant was awarded to retirement-eligible employees under the award terms. The Company accrued the estimated cost of the 2009 Bonus Award granted to retirement-eligible employees over the 2009 fiscal year. The final tranche of the 2009 Bonus Award will vest on December 17, 2012.

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On June 1, 2010, the Company reserved approximately 4.2 million shares of Common Stock for outstanding vested and unvested stock options and 0.1 million shares of Common Stock for outstanding unvested restricted stock awards assumed as part of the acquisition of RiskMetrics. Over an approximate three-and-a-half year period from the date assumed, \$16.7 million is expected to be expensed for unvested stock options and \$1.3 million for unvested restricted stock awards.

On June 1, 2010, the Company awarded certain of its employees with a grant in the form of restricted stock units ("Performance Award"). The Performance Award will performance-vest based upon the Company achieving specific performance targets over a measurement period ending on December 31, 2012 and time-vest over a 31-month period, with one-half time-vested on December 1, 2011 and one-half time-vesting on December 31, 2012. The aggregate value of the grants was approximately \$15.9 million.

On December 10, 2010, the Compensation Committee of the Board of Directors of the Company approved the grant of a special one-time price and time vested stock option award to the Company's Chief Executive Officer ("2010 CEO Award"). The award was valued at approximately \$3.6 million using a Monte Carlo simulation based on the closing price of the Company's Common Stock at the close of business on December 13, 2010. The 2010 CEO Award time-vests over a five-year period, with approximately 25% of the award vesting on each of the second, third, fourth and fifth anniversaries of the grant and is subject to certain market performance conditions.

On December 14, 2010, the Company, as a component of the 2010 annual bonus, awarded a portion of its employees with a grant in the form of restricted stock units ("2010 Bonus Award"). The aggregate value of the grants was approximately \$18.9 million. Approximately \$6.2 million was awarded to retirement-eligible employees under the award terms. A portion of the 2010 Bonus Award consisted of restricted stock units vesting over a three-year period, with one-third vesting on each anniversary of the grant in 2011, 2012 and 2013, respectively. A smaller portion of the 2010 Bonus Award consisted of restricted stock units subject to achieving both specific performance targets over a measurement period ending on December 31, 2012 and a time-vesting period, with one-half time vesting on December 31, 2012 and December 31, 2013, respectively.

On February 2, 2012, the Company, as a component of the 2011 annual bonus, awarded a portion of its employees with a grant in the form of restricted stock units ("2011 Bonus Award"). The aggregate value of the grants was approximately \$21.2 million. Approximately \$6.7 million of the aggregate value of the grants was awarded to retirement-eligible employees under the award terms which had been expensed in the year ended December 31, 2011. A portion of the 2011 Bonus Award consisted of restricted stock units vesting over a three-year period, with one-third vesting on each anniversary of the grant in 2013, 2014 and 2015, respectively. A smaller portion of the 2011 Bonus Award consisted of restricted stock units subject to achieving both specific performance targets over a measurement period ending on December 31, 2013 and a time-vesting period, with one-half time vesting on December 31, 2013 and December 31, 2014, respectively.

For the Performance Award and the 2010 CEO Award, all or a portion of the award may be cancelled in certain limited situations, including termination for cause, if employment is terminated before the end of the relevant restriction period. For the remainder of the awards granted by the Company, all or a portion of the award may be cancelled if employment is terminated for certain reasons before the end of the relevant restriction period for non-retirement-eligible employees.

Share-based expense was \$5.8 million and \$8.5 million for the three months ended March 31, 2012 and 2011, of which \$0.6 million and \$1.8 million was related to the Performance Award, respectively. There was no expense related to the Founders Grant Award for the three months ended March 31, 2012 as this award became fully vested on November 14, 2011. For the three months ended March 31, 2011, \$1.0 million of the share-based compensation expense was related to the Founders Grant Award.

12. INCOME TAXES

The Company's provision for income taxes was \$24.3 million and \$19.8 million for the three months ended March 31, 2012 and 2011, respectively. These amounts reflect effective tax rates of 35.6% and 37.2% for the three months ended March 31, 2012 and 2011, respectively. The effective rate of 35.6% for the three months ended March 31, 2012 reflects our estimate of the effective tax rate for the period and is lower than the prior year because of certain discrete items, the effect of which was to decrease our effective tax rate by 0.8 percentage points, as well as an increase in non-U.S. earnings and decreases in certain of the tax rates applicable to those earnings.

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The Company is under examination by the Internal Revenue Service and other tax authorities in certain countries, such as Japan and the United Kingdom, and states in which the Company has significant business operations, such as New York. The tax years currently under examination vary by jurisdiction. During 2010, Morgan Stanley reached a settlement with New York State and New York City tax authorities on issues relating to years 2002-2006. The Company will indemnify Morgan Stanley for any additional assessments deemed to be due in accordance with the Tax Sharing Agreement once MSCI's share of the settlement is finalized. The Company has a reserve of \$8.4 million to indemnify Morgan Stanley, which has been previously recognized in the Company's financial statements, but has no further information with regards to the settlement amount at this time.

The Company regularly assesses the likelihood of additional assessments in each of the taxing jurisdictions resulting from these open examinations and subsequent years' examinations. The Company has established a liability for unrecognized tax benefits that the Company believes is adequate in relation to the potential for additional assessments. Once established, the Company adjusts unrecognized tax benefits only when more information is available or when an event occurs necessitating a change. At this time it is not possible to reasonably estimate the expected change to the total amount of unrecognized tax benefits and the impact on the effective tax rate over the next 12 months.

The following table summarizes the major taxing jurisdictions in which the Company and its affiliates operate and the earliest tax years subject to examination for each major jurisdiction:

<u>Tax Jurisdiction</u>	<u>Tax Year</u>
United States	2005
California	2008
New York State	2007
New York City	2005
Hong Kong	2004
United Kingdom	2010
Canada	2005
Japan	2009
India	2008

13. SEGMENT INFORMATION

ASC Subtopic 280-10, "Segment Reporting," establishes standards for reporting information about operating segments. Operating segments are defined as components of an enterprise about which separate financial information is available that is evaluated regularly by the chief operating decision maker in deciding how to allocate resources and in assessing performance. MSCI's Chief Executive Officer, who is considered to be its chief operating decision maker, or CODM, reviews financial information presented on an operating segment basis for purposes of making operating decisions and assessing financial performance. MSCI is operating under two segments, the Performance and Risk business and the Governance business. These designations have been made as the discrete operating results of these segments are reviewed by the Company's CODM for purposes of making operating decisions and assessing financial performance.

The Performance and Risk business is a leading global provider of investment decision support tools, including indices, portfolio risk and performance analytics, credit analytics and ESG products. The business provides clients with a broad suite of products and services to assist them with managing equity, fixed income and multi-asset class portfolios. The products are used in many areas of the investment process, including portfolio construction and rebalancing, performance benchmarking and attribution, risk management and analysis, index-linked investment product creation, asset allocation, assessment of social responsibility, environmental stewardship and the effects of climate change on investments, investment manager selection and investment research.

The Governance business is a leading provider of corporate governance products and specialized financial research and analysis services to institutional shareholders and corporations around the world. Among other things, the Governance business facilitates the voting of proxies by institutional investors and provides in-depth research and analysis to help inform their voting decisions and identify issuer-specific risk. It offers both global security coverage and fully integrated products and services, including proxy voting, policy creation, research, vote recommendations, vote execution, post-vote disclosure and reporting and analytical tools. Within a firewall, a separate unit of the Governance business also provides products and services to corporate clients who may use those products and services to learn about and improve their governance and executive compensation practices.

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Revenues and expenses directly associated with each respective segment are included in determining its operating results. Other expenses that are not directly attributable to a particular segment are allocated based upon allocation methodologies, including time studies, headcount, net revenues and other relevant usage measures.

The CODM does not review any information regarding total assets on an operating segment basis. Operating segments do not record intersegment revenue, and, accordingly, there is none to be reported. The accounting policies for segment reporting are the same as for MSCI as a whole.

The following table presents MSCI's operating segments' results for the three months ended March 31, 2012 and 2011:

	<u>Three Months Ended March 31,</u>	
	<u>2012</u>	<u>2011</u>
(in thousands)		
Operating revenues		
Performance and Risk	\$ 198,089	\$ 192,048
Governance	30,963	31,250
Consolidated	<u>\$ 229,052</u>	<u>\$ 223,298</u>
Amortization of intangible assets and depreciation and amortization of property, equipment and leasehold improvements		
Performance and Risk	\$ 16,204	\$ 17,321
Governance	4,171	4,481
Consolidated	<u>\$ 20,375</u>	<u>\$ 21,802</u>
Operating income		
Performance and Risk	\$ 77,475	\$ 72,646
Governance	3,504	2,783
Consolidated	<u>\$ 80,979</u>	<u>\$ 75,429</u>

Revenue by geography is based on the shipping address of the customer. The following table sets forth revenue for the periods indicated by geographic area:

	<u>Three Months Ended March 31,</u>	
	<u>2012</u>	<u>2011</u>
(in thousands)		
Revenues		
Americas:		
United States	\$ 117,003	\$ 106,715
Other	7,521	8,027
Total Americas	<u>124,524</u>	<u>114,742</u>
Europe, the Middle East and Africa ("EMEA"):		
United Kingdom	27,830	27,051
Other	46,267	53,317
Total EMEA	<u>74,097</u>	<u>80,368</u>
Asia & Australia:		
Japan	14,383	13,751
Other	16,048	14,437
Total Asia & Australia	<u>30,431</u>	<u>28,188</u>
Total	<u>\$ 229,052</u>	<u>\$ 223,298</u>

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Long-lived assets consist of property, equipment, leasehold improvements, goodwill and intangible assets, net of accumulated depreciation and amortization.

The following table sets forth long-lived assets on the dates indicated by geographic area:

	As of	
	March 31, 2012	December 31, 2011
	(in thousands)	
Long-lived assets		
Americas:		
United States	\$2,356,902	\$2,369,997
Other	5,376	5,145
Total Americas	<u>2,362,278</u>	<u>2,375,142</u>
EMEA:		
United Kingdom	4,759	5,107
Other	5,137	5,617
Total EMEA	<u>9,896</u>	<u>10,724</u>
Asia & Australia:		
Japan	319	364
Other	4,724	4,859
Total Asia & Australia	<u>5,043</u>	<u>5,223</u>
Total	<u>\$2,377,217</u>	<u>\$2,391,089</u>

14. SUBSEQUENT EVENTS

Management of the Company evaluated subsequent events from April 1, 2012 through the issuance date of this Form 10-Q.

Credit Facility

On May 4, 2012, MSCI amended and restated its existing senior credit facilities consisting of a senior secured Term Loan B Facility and Senior Secured Revolving Facility, which were originally entered into on June 1, 2010 as amended by Amendment No. 1 dated as of February 4, 2011 and Amendment No. 2 dated as of March 14, 2011 (the credit agreement as so amended and restated, the "Amended and Restated Credit Facility"). The Amended and Restated Credit Facility provides for the incurrence of a new senior secured 5-year Term Loan A Facility in an aggregate amount of \$880.0 million and

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\$100.0 million Senior Secured Revolving Facility. The proceeds of the Amended and Restated Credit Facility, together with cash on hand, were used to repay the remaining outstanding principal of the existing Term Loan B Facility. The Term Loan A Facility and Senior Secured Revolving Facility mature on May 4, 2017. In connection with the repayment of the Term Loan B Facility, the Company terminated its then-existing interest rate swaps and is not required to enter into new interest rate swaps to hedge its debt under the Amended and Restated Credit Facility. (See Note 7, "Commitments and Contingencies," for a discussion of the original credit facility, which is referred to as the 2010 Credit Facility in this Form 10-Q, and the related interest rate swap agreements.)

The Term Loan B Facility had borne interest equal to the greater of LIBOR or 1.00% plus 2.50%. The new Term Loan A Facility will initially bear interest of LIBOR plus 2.25%.

The Amended and Restated Credit Facility also amended certain negative covenants, including financial covenants.

MSCI expects to recognize an additional expense of approximately \$18.0 million to \$20.0 million related to the accelerated amortization of existing fees or the immediate recognition of new fees associated with this transaction in the three months ending June 30, 2012.

Common Stock

At MSCI's annual shareholders meeting held on May 2, 2012, the shareholders approved amendments to the Company's Amended and Restated Certificate of Incorporation to (i) eliminate the 250 million authorized shares of class B common stock, (ii) increase the total number of authorized shares of class A common stock by 250 million (the aggregate number of shares of class B common stock being eliminated) to 750 million, (iii) rename the Company's class A common stock as "common stock" and (iv) make certain other conforming changes. The amendments became effective upon the filing of the Third Amended and Restated Certificate of Incorporation with the Secretary of State of the State of Delaware on May 2, 2012.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Shareholders of MSCI Inc.:

We have reviewed the accompanying condensed consolidated statement of financial condition of MSCI Inc. and subsidiaries (the “Company”) as of March 31, 2012, and the related condensed consolidated statements of income, comprehensive income and cash flows for the three-month periods ended March 31, 2012 and 2011. These interim financial statements are the responsibility of the management of MSCI Inc.

We conducted our reviews in accordance with the standards of the Public Company Accounting Oversight Board (United States). A review of interim financial information consists principally of applying analytical procedures and making inquiries of persons responsible for financial and accounting matters. It is substantially less in scope than an audit conducted in accordance with the standards of the Public Company Accounting Oversight Board (United States), the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we do not express such an opinion.

Based on our reviews, we are not aware of any material modifications that should be made to such condensed consolidated interim financial statements for them to be in conformity with accounting principles generally accepted in the United States of America.

We have previously audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated statement of financial condition of MSCI Inc. and subsidiaries as of December 31, 2011 and the related consolidated statements of income, comprehensive income, shareholders’ equity and cash flows for the fiscal year then ended (not presented herein); and in our report dated February 29, 2012, we expressed an unqualified opinion on those consolidated financial statements. In our opinion, the information set forth in the accompanying condensed consolidated statement of financial condition as of December 31, 2011 is fairly stated, in all material respects, in relation to the consolidated statement of financial condition from which it has been derived.

/s/ Deloitte & Touche LLP

New York, New York
May 4, 2012

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

The following discussion and analysis of the financial condition and results of operations should be read in conjunction with the condensed consolidated financial statements and related notes included elsewhere in this Form 10-Q and in our Annual Report on Form 10-K for the fiscal year ended December 31, 2011 (the “Form 10-K”). This discussion contains forward-looking statements that involve risks and uncertainties. Our actual results could differ materially from those discussed below. Factors that could cause or contribute to such differences include, but are not limited to, those identified below and those discussed in “Item 1A.—Risk Factors,” within this Form 10-Q and in our Form 10-K.

Overview

We are a leading global provider of investment decision support tools, including indices, portfolio risk and performance analytics and corporate governance products and services. Our products and services address multiple markets, asset classes and geographies and are sold to a diverse client base, including asset owners such as pension funds, endowments, foundations, central banks, family offices and insurance companies; institutional and retail asset managers, such as managers of pension assets, mutual funds, exchange traded funds (“ETFs”), hedge funds and private wealth; financial intermediaries such as banks, broker-dealers, exchanges, custodians and investment consultants; and corporate clients. As of March 31, 2012, we had 30 offices in 20 countries to help serve our diverse client base, with 54.4% of our revenue from clients in the Americas, 32.3% in Europe, the Middle East and Africa (“EMEA”) and 13.3% in Asia and Australia based on revenues for the three months ended March 31, 2012.

Our principal sales model in both of our business segments is to license annual, recurring subscriptions to our products and services for use at specified locations, often by a given number of users or for a certain volume of services, for an annual fee paid up front. We also derive revenues from certain institutional clients that use our indices as the basis for passively managed funds and separate accounts. These clients commonly pay us a license fee for the use of our intellectual property based on the investment product’s assets. We generate a limited amount of our revenues from certain exchanges that use our indices as the basis for futures and options contracts and pay us a license fee for the use of our intellectual property based on their volume of trades. We also receive revenues from one-time fees related to implementation, historical or customized reports, advisory and consulting services, overages relating to proxy research and voting services, fees relating to recovery of securities class action settlements and from certain products and services that are designed for one-time usage.

In evaluating our financial performance, we focus on revenue growth for the company in total and by product category as well as operating profit growth and the level of profitability as measured by our operating margin. Our business is not highly capital intensive and, as such, we expect to continue to convert a high percentage of our operating profits into excess cash in the future. Our revenue growth strategy includes: (a) expanding and deepening our relationships with investment institutions worldwide; (b) developing new and enhancing existing product offerings, including combining existing product features or data derived from our products to create new products; and (c) actively seeking to acquire products, technologies and companies that will enhance, complement or expand our client base and our product offerings.

To maintain and accelerate our revenue and operating income growth, we will continue to invest in and expand our operating functions and infrastructure, including additional product management, sales and client support staff and facilities in locations around the world and additional staff and supporting technology for our research and our data operations and technology functions. At the same time, managing and controlling our operating expenses is very important to us and a distinct part of our culture. Over time, our goal is to keep the rate of growth of our operating expenses below the rate of growth of our revenues, allowing us to expand our operating margins. However, at times, because of significant market opportunities, it may be more important for us to invest in our business in order to support increased efforts to attract new clients and to develop new product offerings, rather than emphasize short-term operating margin expansion. Furthermore, in some periods our operating expense growth may exceed our operating revenue growth due to the variability of revenues from several of our products, including our equity indices licensed as the basis of ETFs and non-recurring fees.

Operating Segments

We are operating under two segments: the Performance and Risk business and the Governance business. See Note 13, “Segment Information,” for further information about MSCI’s operating segments.

Our Performance and Risk business is a leading global provider of investment decision support tools, including indices and portfolio risk and performance analytics. Our Performance and Risk products are used in many areas of the investment

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process, including portfolio construction and rebalancing, performance benchmarking and attribution, risk management and analysis, index-linked investment product creation, asset allocation, assessment of social responsibility, environmental stewardship and the effects of climate change on investments, investment manager selection and investment research. The flagship products within our Performance and Risk business are our global equity indices and ESG products marketed under the MSCI brand, our market and credit risk analytics marketed under the RiskMetrics and Barra brands, our portfolio risk and performance analytics covering global equity and fixed income markets marketed under the Barra brand and our valuation models and risk management software for the energy and commodities markets marketed under the FEA brand.

Our Governance business is a leading provider of corporate governance and specialized financial research and analysis services to institutional investors and corporations around the world. Among other things, the Governance business facilitates the voting of proxies by institutional investors and provides in-depth research and analysis to help inform voting decisions and identify issuer-specific risk. The Governance business offers both global security coverage and fully integrated products and services, including proxy voting, policy creation, research, vote recommendations, vote execution, post-vote disclosure and reporting and analytical tools. Within a firewall designed to separate it from the rest of the Governance business, ISS Corporate Services also provides products and services to corporate clients who may use those products and services to learn about and improve their governance practices. The flagship products within our Governance business are our governance research and outsourced proxy voting and reporting services marketed under the ISS brand and our forensic accounting risk research, legal/regulatory risk assessment and due diligence products marketed under the CFRA brand.

Factors Affecting the Comparability of Results

Restructuring

In connection with the acquisition of RiskMetrics, we initiated a plan to restructure the Company's operations to eliminate overlapping positions and duplicative occupancy costs, terminate overlapping vendor contracts, and discontinue the planned integration of a product into RiskMetrics' standard product offering suite. We initiated restructuring activities during the third quarter of 2010 and substantially completed the elimination of overlapping positions in the first quarter of 2011 and the elimination of leases or vendor contracts was substantially completed during the year ended December 31, 2011. See "—Restructuring" below and Note 3, "Restructuring," for further information about MSCI's restructuring-related activities and estimated costs.

Term Loan Repricing

On March 14, 2011, we completed the repricing of the 2010 Term Loan. The repricing provided for the incurrence of a new senior secured loan (the "2011 Term Loan") in an aggregate principal amount of \$1,125.0 million. The proceeds of the 2011 Term Loan, together with \$87.6 million of cash on hand, were used to repay the remaining \$1,212.6 million outstanding balance of the 2010 Term Loan in full. The 2011 Term Loan matures in March 2017. The repricing decreased the interest rate applicable to the 2011 Term Loan from the London Interbank Offered Rate ("LIBOR") plus 3.25% (with a leverage-based stepdown) to LIBOR plus 2.75% (with a leverage-based stepdown) and reduced the LIBOR floor applicable to the 2011 Term Loan from 1.50% to 1.00%. We incurred \$6.1 million in fees associated with the repricing which are reflected in "Other expense (income)" on the Company's Condensed Consolidated Statement of Income for the three months ended March 31, 2011.

The discussion of our results of operations for the three months ended March 31, 2012 and 2011 are presented below. The results of operations for interim periods may not be indicative of future results.

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Results of Operations

The following table presents the results of operations for the three months ended March 31, 2012 and 2011:

	Three Months Ended March 31,		Increase/ (Decrease)	
	2012	2011		
	(in thousands, except per share data)			
Operating revenues	\$229,052	\$223,298	\$ 5,754	2.6%
Operating expenses:				
Cost of services	72,291	70,218	2,073	3.0%
Selling, general and administrative	55,436	51,418	4,018	7.8%
Restructuring	(29)	4,431	(4,460)	(100.7%)
Amortization of intangible assets	15,959	16,692	(733)	(4.4%)
Depreciation and amortization of property, equipment, and leasehold improvements	4,416	5,110	(694)	(13.6%)
Total operating expenses	148,073	147,869	204	0.1%
Operating income	80,979	75,429	5,550	7.4%
Other expense (income), net	12,740	22,085	(9,345)	(42.3%)
Provision for income taxes	24,273	19,823	4,450	22.4%
Net income	<u>\$ 43,966</u>	<u>\$ 33,521</u>	<u>\$ 10,445</u>	31.2%
Earnings per basic common share	<u>\$ 0.36</u>	<u>\$ 0.28</u>	<u>\$ 0.08</u>	28.6%
Earnings per diluted common share	<u>\$ 0.35</u>	<u>\$ 0.27</u>	<u>\$ 0.08</u>	29.6%
Operating margin	<u>35.4%</u>	<u>33.8%</u>		

Operating Revenues

We are operating under two segments: the Performance and Risk business and the Governance business. Our revenues are grouped into the following five product and/or service categories:

- Index and ESG
- Risk management analytics
- Portfolio management analytics
- Energy and commodity analytics
- Governance

The Performance and Risk business is comprised of index and ESG, risk management analytics, portfolio management analytics and energy & commodity analytics products. The Governance business is comprised of the governance products.

The following table summarizes the revenue by product category for the three months ended March 31, 2012 compared to the three months ended March 31, 2011:

	Three Months Ended March 31,		Increase/ (Decrease)	
	2012	2011		
	(in thousands)			
Index and ESG:				
Subscriptions	\$ 71,639	\$ 62,159	\$ 9,480	15.3%
Asset based fees	34,609	37,869	(3,260)	(8.6%)
Total index and ESG products	106,248	100,028	6,220	6.2%
Risk management analytics	64,077	58,866	5,211	8.9%
Portfolio management analytics	29,063	29,284	(221)	(0.8%)
Energy and commodity analytics	(1,299)	3,870	(5,169)	(133.6%)
Governance	30,963	31,250	(287)	(0.9%)
Total operating revenues	<u>\$ 229,052</u>	<u>\$ 223,298</u>	<u>\$ 5,754</u>	2.6%

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Total operating revenues for the three months ended March 31, 2012 increased \$5.8 million, or 2.6%, to \$229.1 million compared to \$223.3 million for the three months ended March 31, 2011. Subscription revenues consist of our revenues related to index and ESG subscriptions, risk management analytics, portfolio management analytics, energy and commodity analytics and governance products.

During the three months ended March 31, 2012, as a result of a one-time non-cash adjustment, we recorded a \$5.2 million cumulative revenue reduction to correct an immaterial error related to revenues previously reported through December 31, 2011. See Note 1, "Introduction And Basis Of Presentation," of the Notes to the Unaudited Condensed Consolidated Financial Statements for further information. The effect of recording this adjustment in the first quarter resulted in a one-time decrease to the energy and commodity analytics products revenues and an increase in deferred revenues. Previously, our policy resulted in the immediate recognition of a substantial portion of the revenue for certain energy and commodity analytics product related contracts, the terms of which were one year. However, it was determined that the entire license fee related to these contracts should have been recognized ratably over the term of the license. As such, we made the cumulative adjustment effective January 1, 2012 and started recognizing revenue for all contracts still in effect as of this date ratably over the remainder of the term and will recognize revenue ratably over the contract term for any new contracts entered into on January 1, 2012 and thereafter.

Our index and ESG products primarily consist of equity index subscriptions, equity index asset based fees products and ESG products. Our index and ESG products are used to benchmark investment performance, as a basis for index-linked investment products, to assess social responsibility, environmental stewardship and the effects of climate change on investments, for research and for investment manager selection. We derive revenues from our index and ESG products through index data and ESG subscriptions, fees based on assets in investment products linked to our indices and non-recurring licenses of our index historical data. Revenues related to index products increased 6.2% to \$106.2 million for the three months ended March 31, 2012 compared to \$100.0 million for the three months ended March 31, 2011.

Subscription revenues from the index and ESG products were up 15.3% to \$71.6 million for the three months ended March 31, 2012 compared to \$62.2 million for the three months ended March 31, 2011. Approximately \$8.2 million of the growth was primarily attributable to our benchmark products.

Asset based fee revenues attributable to the index and ESG products decreased 8.6% to \$34.6 million for the three months ended March 31, 2012 compared to \$37.9 million for the three months ended March 31, 2011. The year over year difference primarily relates to the impact of \$4.3 million of non-recurring revenue recognized during the three months ended March 31, 2011 with no similar revenue recognized during the current period. The average value of assets in ETFs linked to MSCI equity indices in the aggregate increased 1.0% to \$341.0 billion for the three months ended March 31, 2012 compared to \$337.6 billion for the three months ended March 31, 2011. As of March 31, 2012, the value of assets in ETFs linked to MSCI equity indices was \$354.7 billion, representing an increase of 1.3% from \$350.1 billion as of March 31, 2011.

Of the \$354.7 billion of assets in ETFs linked to MSCI equity indices as of March 31, 2012, 40.9% were linked to emerging market indices, 32.6% were linked to developed markets outside of the U.S., 23.3% were linked to U.S. market indices and 3.2% were linked to other global indices.

The following table sets forth the value of assets in ETFs linked to MSCI indices and the sequential change of such assets as of the periods indicated:

<u>\$ in Billions</u>	<u>Quarter Ended</u>				
	<u>March 31, 2011</u>	<u>June 30, 2011</u>	<u>September 30, 2011</u>	<u>December 31, 2011</u>	<u>March 31, 2012</u>
AUM in ETFs linked to MSCI Indices	\$ 350.1	\$ 360.5	\$ 290.1	\$ 301.6	\$ 354.7
<u>Sequential Change (\$ in Billions)</u>					
Market Appreciation/(Depreciation)	\$ 10.1	\$ (3.8)	\$ (70.4)	\$ 10.5	\$ 37.9
Cash Inflow	6.7	14.2	—	1.0	15.2
Total Change	<u>\$ 16.8</u>	<u>\$ 10.4</u>	<u>\$ (70.4)</u>	<u>\$ 11.5</u>	<u>\$ 53.1</u>

Source: Bloomberg and MSCI

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The following table sets forth the average value of assets in ETFs linked to MSCI indices for the periods indicated:

\$ in Billions	Quarterly Average				
	2011				2012
	March	June	September	December	March
AUM in ETFs linked to MSCI Indices	\$337.6	\$356.8	\$ 329.1	\$ 305.0	\$341.0

Source: Bloomberg and MSCI

The historical values of the assets in ETFs linked to our indices as of the last day of the month and the monthly average balance can be found under the link “AUM in ETFs Linked to MSCI Indices” on our website at <http://ir.msci.com>. This information is updated on the second U.S. business day of each month. Information contained on our website is not incorporated by reference into this Quarterly Report on Form 10-Q or any other report filed with the Securities and Exchange Commission.

Our risk management analytics products offer risk and performance assessment frameworks for managing and monitoring investments in organizations globally. These products allow clients to analyze investments in a variety of asset classes and are based on our proprietary integrated fundamental multi-factor risk models, value-at-risk methodologies, performance attribution frameworks and asset valuation models.

Revenues related to risk management analytics products increased \$5.2 million, or 8.9%, to \$64.1 million for the three months ended March 31, 2012 compared to \$58.9 million for the three months ended March 31, 2011. Approximately \$4.3 million of the growth primarily reflects an increase of sales in our risk analytics products.

Our portfolio management analytics products consist of equity portfolio analytics tools and fixed income portfolio analytics tools. Revenues related to portfolio management analytics products decreased \$0.2 million, or 0.8%, to \$29.1 million for the three months ended March 31, 2012 compared to \$29.3 million for three months ended March 31, 2011. The decrease was driven by lower revenues from our equity portfolio analytics products.

Our energy and commodity analytics products consist of software applications which help users value, model and facilitate the hedging of physical assets and derivatives across a number of market segments including energy and commodity assets. As a result of the revenue adjustment discussed earlier, revenues from energy and commodity analytics products decreased \$5.2 million to a negative \$1.3 million for the three months ended March 31, 2012 compared to \$3.9 million for the three months ended March 31, 2011. Excluding the impact of the revenue adjustment recorded during the three months ended March 31, 2012, revenues from our energy and commodity analytics products would have been primarily unchanged from the three months ended March 31, 2011.

Our governance products consist of corporate governance products and services, including proxy research, recommendation and voting services for institutional investors as well as governance advisory services and compensation data and analytics for corporations. They also include equity research based on forensic accounting research as well as class action monitoring and claims filing services to aid institutional investors in the recovery of funds from class action securities litigation. Governance products decreased \$0.3 million to \$31.0 million for the three months ended March 31, 2012 compared to \$31.3 million for the three months ended March 31, 2011. Subscription revenues for our governance products increased \$1.5 million to \$27.2 million and non-recurring revenues decreased \$1.8 million to \$3.7 million for the three months ended March 31, 2012 with the changes generally resulting from a product shift towards subscription-based products.

Run Rate

At the end of any period, we generally have subscription and investment product license agreements in place for a large portion of our total revenues for the following 12 months. We measure the fees related to these agreements and refer to this as our “Run Rate.” The Run Rate at a particular point in time represents the forward-looking fees for the next 12 months from all subscriptions and investment product licenses we currently provide to our clients under renewable contracts assuming all contracts that come up for renewal are renewed and assuming then-current exchange rates. For any subscription or license where fees are linked to an investment product’s assets or trading volume, the Run Rate calculation reflects an annualization of the most

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recent periodic fee earned under such license or subscription. The Run Rate does not include fees associated with “one-time” and other non-recurring transactions. In addition, we remove from the Run Rate the fees associated with any subscription or investment product license agreement with respect to which we have received a notice of termination or non-renewal during the period and we have determined that such notice evidences the client’s final decision to terminate or not renew the applicable subscription or agreement, even though such notice is not effective until a later date.

Because the Run Rate represents potential future fees, there is typically a delayed impact on our operating revenues from changes in our Run Rate. In addition, the actual amount of revenues we will realize over the following 12 months will differ from the Run Rate because of:

- revenues associated with new subscriptions and non-recurring sales;
- modifications, cancellations and non-renewals of existing agreements, subject to specified notice requirements;
- fluctuations in asset based fees, which may result from market movements or from investment inflows into and outflows from investment products linked to our indices;
- fluctuations in fees based on trading volumes of futures and options contracts linked to our indices;
- fluctuations in the number of hedge funds for which we provide investment information and risk analysis to hedge fund investors;
- price changes;
- revenue recognition differences under U.S. GAAP;
- fluctuations in foreign exchange rates; and
- the impact of acquisitions and dispositions.

The following table sets forth our Run Rates and the percentage growth over the periods indicated. Run Rates have been adjusted to conform to the product categorization used for accounting revenues:

	<u>As of</u>			<u>Year-Over- Year Comparison</u>	<u>Sequential Comparison</u>
	<u>March 31, 2012</u>	<u>March 31, 2011</u>	<u>December 31, 2011</u>		
	(in thousands)				
Run Rates					
Index and ESG products					
Subscription	\$278,541	\$247,870	\$ 269,780	12.4%	3.2%
Asset based fees	136,962	134,257	119,706	2.0%	14.4%
Index and ESG products total	415,503	382,127	389,486	8.7%	6.7%
Risk management analytics	257,973	243,853	250,967	5.8%	2.8%
Portfolio management analytics	117,751	116,839	118,354	0.8%	(0.5)%
Energy and commodity analytics	14,926	15,047	14,928	(0.8)%	n/a%
Governance	113,054	105,870	108,251	6.8%	4.4%
Total Run Rate	<u>\$919,207</u>	<u>\$863,736</u>	<u>\$ 881,986</u>	6.4%	4.2%
Subscription total	\$782,245	\$729,479	\$ 762,280	7.2%	2.6%
Asset based fees total	136,962	134,257	119,706	2.0%	14.4%
Total Run Rate	<u>\$919,207</u>	<u>\$863,736</u>	<u>\$ 881,986</u>	6.4%	4.2%

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Aggregate and Core Retention Rates

The following table sets forth our Aggregate Retention Rates by product category for the indicated three months ended:

	<u>March 31,</u> <u>2012</u>	<u>March 31,</u> <u>2011</u>
Index and ESG products	94.5%	95.0%
Risk management analytics	93.9%	94.2%
Portfolio management analytics	91.9%	88.6%
Energy and commodity analytics	90.2%	76.9%
Governance	88.7%	85.0%
Total	93.0%	91.8%

The following table sets forth our Core Retention Rates by product category for the indicated three months ended:

	<u>March 31,</u> <u>2012</u>	<u>March 31,</u> <u>2011</u>
Index and ESG products	94.6%	95.2%
Risk management analytics	94.0%	94.2%
Portfolio management analytics	92.2%	89.9%
Energy and commodity analytics	90.7%	76.9%
Governance	88.7%	85.0%
Total	93.1%	92.1%

The quarterly Aggregate Retention Rates are calculated by annualizing the cancellations for which we have received a notice of termination or non-renewal during the quarter and have determined that such notice evidences the client's final decision to terminate or not renew the applicable subscription or agreement, even though such notice is not effective until a later date. This annualized cancellation figure is then divided by the subscription Run Rate at the beginning of the year to calculate a cancellation rate. This cancellation rate is then subtracted from 100% to derive the annualized Aggregate Retention Rate for the quarter. The Aggregate Retention Rate is computed on a product-by-product basis. Therefore, if a client reduces the number of products to which it subscribes or switches between our products, we treat it as a cancellation. In addition, we treat any reduction in fees resulting from renegotiated contracts as a cancellation in the calculation to the extent of the reduction. In our businesses, Aggregate Retention Rates are generally higher during the first three fiscal quarters and lower in the fourth fiscal quarter.

For the calculation of the Core Retention Rate the same methodology is used except the cancellations in the quarter are reduced by the amount of product swaps. We do not calculate Aggregate or Core Retention Rates for that portion of our Run Rate attributable to assets in investment products linked to our indices or to trading volumes of futures and options contracts linked to our indices.

In our businesses, Aggregate and Core Retention Rates are generally higher during the first three fiscal quarters and lower in the fourth fiscal quarter.

Operating Expenses

We group our operating expenses into five categories:

- Cost of services
- Selling, general and administrative ("SG&A")
- Restructuring
- Amortization of intangible assets
- Depreciation of property, equipment, and leasehold improvements

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In both the cost of services and SG&A expense categories, compensation and benefits represent the majority of our expenses. Other costs associated with the number of employees such as office space and professional services are included in both the cost of services and SG&A expense categories and are consistent with the allocation of employees to those respective areas.

The following table shows operating expenses by each of the categories:

	<u>Three Months Ended March 31,</u>		<u>Increase/</u>	
	<u>2012</u>	<u>2011</u>	<u>(Decrease)</u>	
Cost of services:				
Compensation and benefits	\$ 53,817	\$ 52,212	\$ 1,605	3.1%
Non-compensation expenses	18,474	18,006	468	2.6%
Total cost of services	72,291	70,218	2,073	3.0%
Selling, general and administrative:				
Compensation and benefits	38,806	36,488	2,318	6.4%
Non-compensation expenses	16,630	14,930	1,700	11.4%
Total selling, general and administrative	55,436	51,418	4,018	7.8%
Restructuring	(29)	4,431	(4,460)	(100.7%)
Amortization of intangible assets	15,959	16,692	(733)	(4.4%)
Depreciation of property, equipment, and leasehold improvements	4,416	5,110	(694)	(13.6%)
Total operating expenses	\$ 148,073	\$ 147,869	\$ 204	0.1%
Compensation and benefits	\$ 92,623	\$ 88,700	\$ 3,923	4.4%
Non-compensation expenses	35,104	32,936	2,168	6.6%
Restructuring	(29)	4,431	(4,460)	(100.7%)
Amortization of intangible assets	15,959	16,692	(733)	(4.4%)
Depreciation of property, equipment, and leasehold improvements	4,416	5,110	(694)	(13.6%)
Total operating expenses	\$ 148,073	\$ 147,869	\$ 204	0.1%

Operating expenses were \$148.1 million for the three months ended March 31, 2012, an increase of \$0.2 million, or 0.1%, compared to \$147.9 million for the three months ended March 31, 2011.

Compensation and benefits expenses represent the majority of our expenses across all of our operating functions and typically have represented approximately 60% of our total operating expenses. These costs generally contribute to the majority of our expense increases from period to period, reflecting increased compensation and benefits expenses for current staff and increased staffing levels. Continued growth of our emerging market centers around the world is an important factor in our ability to manage and control the growth of our compensation and benefit expenses. As of March 31, 2012, approximately 40.4% of our employees were located in emerging market centers compared to 31.6% as of March 31, 2011.

During the three months ended March 31, 2012, compensation and benefits costs were \$92.6 million, an increase of \$3.9 million, or 4.4%, compared to \$88.7 million for the three months ended March 31, 2011. We had 2,465 and 2,049 employees as of March 31, 2012 and 2011, respectively. The increase in compensation and benefits costs reflects higher costs related to current staff and increased staffing levels and higher post-retirement and other expenses partially offset by decreased stock-based compensation expenses.

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Stock-based compensation expense for the three months ended March 31, 2012 was \$5.6 million, a decrease of \$2.7 million, or 32.7%, compared to \$8.3 million for the three months ended March 31, 2011. The decrease was primarily caused by decreased expense associated with the amortization of the Founders Grant Award and the Performance Award. The decrease in the expense related to the Founders Grant Award is attributable to the award's final vesting that occurred in November 2011. The decrease in the expense related to Performance Award is attributable to both the time-vesting of the first tranche of the award and a decrease in the number of shares expected to be distributed at vesting during the three months ended March 31, 2012 compared to the same period in 2011. Approximately \$1.0 million of the stock-based compensation expense was related to the Founders Grant Award for the three months ended March 31, 2011. For the three months ended March 31, 2012 and 2011, approximately \$0.6 million and \$1.8 million, respectively, of the stock-based compensation expense was associated with the Performance Award granted in June 2010.

Non-compensation expenses for the three months ended March 31, 2012 was \$35.1 million, an increase of \$2.2 million, or 6.6%, compared to \$32.9 million for the three months ended March 31, 2011. The increase was primarily related to higher occupancy costs driven by the duplicative rent costs associated with our 7 World Trade Center lease which began on February 1, 2012. See "Liquidity and Capital Resources" below for further information regarding this lease.

Cost of Services

Cost of services includes costs related to our research, data management and production, software engineering and product management functions. Costs in these areas include staff compensation and benefits, occupancy costs, market data fees and information technology services. Compensation and benefits generally contribute to a majority of our expense increases from period to period, reflecting increases for existing staff and increased staffing levels. For the three months ended March 31, 2012, total cost of services increased \$2.1 million, or 3.0%, to \$72.3 million compared to \$70.2 million for the three months ended March 31, 2011.

Compensation and benefits expenses for the three months ended March 31, 2012 increased \$1.6 million to \$53.8 million compared to \$52.2 million for the three months ended March 31, 2011. The increase reflects higher costs related to current staff and increased staffing levels and higher post-retirement and other expenses partially offset by decreased stock-based compensation expenses.

Non-compensation expenses for the three months ended March 31, 2012 increased \$0.5 million to \$18.5 million compared to \$18.0 million for the three months ended March 31, 2011. The increase was primarily driven by increased occupancy costs partially offset by decreased information technology costs.

Selling, General and Administrative

SG&A includes expenses for our sales and marketing staff, and our finance, human resources, legal and compliance, information technology infrastructure and corporate administration personnel. As with cost of services, the largest expense in this category relates to compensation and benefits. Other significant expenses are for occupancy costs, consulting services and information technology costs. For the three months ended March 31, 2012, SG&A was \$55.4 million, an increase of \$4.0 million, or 7.8%, compared to \$51.4 million for the three months ended March 31, 2011.

Compensation and benefits expenses increased \$2.3 million to \$38.8 million for the three months ended March 31, 2012 compared to \$36.5 million for the three months ended March 31, 2011. The same as with compensation and benefits expenses in cost of services, the increase reflects higher costs related to current staff and increased staffing levels and higher post-retirement and other expenses partially offset by decreased stock-based compensation expenses.

Non-compensation expenses for the three months ended March 31, 2012 increased \$1.7 million, or 11.4%, to \$16.6 million compared to \$14.9 million for the three months ended March 31, 2011. The increase was primarily driven by increased occupancy and information technology costs.

Restructuring

During the year ended November 30, 2010, MSCI's management approved, committed to and initiated a plan to restructure the Company's operations due to its acquisition of RiskMetrics. Restructuring includes expenses associated with the elimination of overlapping positions and duplicative occupancy costs and the termination of overlapping vendor contracts. There was less than \$0.1 million of restructuring benefits recognized during the three months ended March 31, 2012, relating to adjustments made for costs accrued for the elimination of overlapping positions. Restructuring expense was \$4.4 million for the three months ended March 31, 2011, with approximately \$0.5 million of the expense associated with the elimination of overlapping positions and \$3.9 million of the expense associated with eliminating duplicative occupancy costs.

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Amortization of Intangibles

Amortization of intangibles expense relates to the intangible assets arising from the acquisition of Barra in June 2004, RiskMetrics in June 2010 and Measurisk in July 2010. Amortization of intangibles expense totaled \$16.0 million and \$16.7 million for the three months ended March 31, 2012 and 2011, respectively. The decrease in expense resulted from a portion of the intangibles arising from the RiskMetrics and Measurisk acquisitions becoming fully amortized.

Depreciation and Amortization of Property, Equipment and Leasehold Improvements

Depreciation and amortization of property, equipment, and leasehold improvements totaled \$4.4 million and \$5.1 million for the three months ended March 31, 2012 and 2011, respectively. The decrease is primarily related to the impact of eliminating duplicative occupancy costs and certain information technology assets becoming fully depreciated.

Other Expense (Income), Net

Other expense (income), net for the three months ended March 31, 2012 was \$12.8 million, a decrease of \$9.3 million compared to \$22.1 million for the three months ended March 31, 2011. The decrease is primarily the result of lower outstanding principal on our debt and the fact that we recognized \$6.1 million in fees associated with the repricing of our senior secured term loan during the three months ended March 31, 2011 while no such costs were recognized during the current year.

Income Taxes

The provision for income tax expense for the three months ended March 31, 2012 was \$24.3 million, an increase of \$4.5 million, or 22.4%, compared to \$19.8 million for the three months ended March 31, 2011. These amounts reflect effective tax rates of 35.6% and 37.2% for the three months ended March 31, 2012 and 2011. The effective rate of 35.6% for the three months ended March 31, 2012 reflects our estimate of the effective tax rate for the period and is lower than the prior year because of certain discrete items, the effect of which was to decrease our effective tax rate by 0.8 percentage points, as well as an increase in non-U.S. earnings and decreases in certain of the tax rates applicable to those earnings.

Segment Results of Operations

The results of operations by segment for the three months ended March 31, 2012 and 2011 were as follows:

	Three Months Ended March 31, 2012			Three Months Ended March 31, 2011			Percentage Change		
	Performance and Risk	Governance	Total	Performance and Risk	Governance	Total	Performance and Risk	Governance	Total
	(in thousands)								
Operating revenues	\$ 198,089	\$ 30,963	\$ 229,052	\$ 192,048	\$ 31,250	\$ 223,298	3.1%	(0.9%)	2.6%
Cost of services	56,923	15,368	72,291	55,099	15,119	70,218	3.3%	1.6%	3.0%
Selling, general and administrative	47,506	7,930	55,436	44,666	6,752	51,418	6.4%	17.4%	7.8%
Restructuring	(19)	(10)	(29)	2,316	2,115	4,431	(100.8%)	(100.5%)	(100.7%)
Amortization of intangible assets	12,639	3,320	15,959	13,342	3,350	16,692	(5.3%)	(0.9%)	(4.4%)
Depreciation and amortization of property, equipment and leasehold improvements	3,565	851	4,416	3,979	1,131	5,110	(10.4%)	(24.8%)	(13.6%)
Total operating expenses	120,614	27,459	148,073	119,402	28,467	147,869	1.0%	(3.5%)	0.1%
Operating income	77,475	3,504	80,979	72,646	2,783	75,429	6.6%	25.9%	7.4%
Other expense (income), net			12,740			22,085			(42.3%)
Income before provision for income taxes			68,239			53,344			27.9%
Provision for income taxes			24,273			19,823			22.4%
Net income			\$ 43,966			\$ 33,521			31.2%

Performance and Risk

Total operating revenues for the Performance and Risk business increased \$6.0 million, or 3.1%, to \$198.1 million for the three months ended March 31, 2012. The increase was primarily driven by higher revenues from MSCI's core benchmark indices, increased index and ESG asset based fees and growth within our risk management analytics products, partially offset by the \$5.2 million revenue adjustment recorded in our energy and commodity analytics products.

Cost of services for the Performance and Risk business increased \$1.8 million, or 3.3%, to \$56.9 million for the three months ended March 31, 2012. Within cost of services, compensation and benefits expenses increased \$1.9 million to \$42.9 million as a result of higher costs related to current staff and increased staffing levels and higher post-retirement and other expenses partially offset by decreased stock-based compensation expenses. Non-compensation expenses decreased slightly to \$14.0 million, driven primarily by lower information technology costs, travel and entertainment and other miscellaneous costs, offset by higher occupancy costs and outside professional fees.

SG&A expense for the Performance and Risk business increased \$2.8 million, or 6.4%, to \$47.5 million for the three months ended March 31, 2012. Within SG&A, compensation and benefits expenses increased \$1.9 million to \$33.3 million as a result of higher costs related to current staff and increased staffing levels and higher post-retirement and other expenses partially offset by decreased stock-based compensation expenses. Non-compensation expenses increased \$0.9 million to \$14.2 million.

Amortization of intangibles expense for the Performance and Risk business totaled \$12.6 million and \$13.3 million for the three months ended March 31, 2012 and 2011, respectively. The decrease in expense resulted from a portion of the intangibles arising from the RiskMetrics and Measurisk acquisitions becoming fully amortized.

Depreciation and amortization of property, equipment, and leasehold improvements for the Performance and Risk business totaled \$3.6 million and \$4.0 million for the three months ended March 31, 2012 and 2011, respectively. The decrease is primarily related to the impact of eliminating duplicative occupancy costs and certain information technology assets becoming fully depreciated.

Governance

Total operating revenues for the Governance business decreased \$0.3 million, or 0.9%, to \$31.0 million for the three months ended March 31, 2012 compared to \$31.3 million for the three months ended March 31, 2012. Within the Governance business, recurring revenues increased \$1.5 million to \$27.2 million and non-recurring revenues decreased \$1.8 million to \$3.7 million for the three months ended March 31, 2012.

Cost of services for the Governance business increased \$0.3 million to \$15.4 million for the three months ended March 31, 2012. Compensation and benefits expenses decreased \$0.3 million to \$11.0 million while non-compensation expenses rose to \$4.4 million, driven primarily by higher occupancy costs.

SG&A expense for the Governance business increased \$1.2 million to \$7.9 million for the three months ended March 31, 2012. Within SG&A, compensation and benefits expenses increased \$0.5 million to \$5.5 million a result of higher costs related to current staff and increased staffing levels and increased post-retirement and other expenses partially offset by decreased stock-based compensation expenses. Non-compensation expenses increased \$0.7 million to \$2.4 million primarily as a result of higher outside professional fees.

Amortization of intangibles expense for the Governance business totaled \$3.3 million and \$3.4 million for the three months ended March 31, 2012 and 2011, respectively. The decrease in expense resulted from a portion of the intangibles arising from the RiskMetrics acquisition becoming fully amortized.

Depreciation and amortization of property, equipment, and leasehold improvements for the Governance business totaled \$0.9 million and \$1.1 million for the three months ended March 31, 2012 and 2011, respectively. The decrease is primarily related to the impact of eliminating duplicative occupancy costs.

Critical Accounting Policies and Estimates

We describe our significant accounting policies in Note 1, “Introduction and Basis of Presentation,” of the Notes to Consolidated Financial Statements included in our Form 10-K for the fiscal year ended December 31, 2011 and also in Note 2, “Recent Accounting Standards Updates,” in the Notes to Consolidated Financial Statements included herein. We discuss our critical accounting estimates in Management’s Discussion and Analysis of Financial Condition and Results of Operations in our Form 10-K for the year ended December 31, 2011. There were no significant changes in our accounting policies or critical accounting estimates since the end of the year ended December 31, 2011.

Liquidity and Capital Resources

We require capital to fund ongoing operations, internal growth initiatives and acquisitions. Our primary sources of liquidity are cash flows generated from our operations, proceeds from the maturity and sale of our short-term investments, existing cash and cash equivalents and credit capacity under our credit facilities. We intend to use these sources of liquidity to service our existing and future debt obligations and fund our working capital requirements, capital expenditures, investments and acquisitions. In connection with our business strategy, we regularly evaluate acquisition opportunities. We believe our liquidity, along with other financing alternatives, will provide the necessary capital to fund these transactions and achieve our planned growth.

On June 1, 2010, we entered into a senior secured credit agreement with Morgan Stanley Senior Funding, Inc., as administrative agent, Morgan Stanley & Co. Incorporated, as collateral agent, and the other lenders party thereto, which was comprised of (i) a \$1,275.0 million six-year term loan facility (the “2010 Term Loan”) and (ii) a \$100.0 million five-year revolving credit facility, which included a \$25.0 million letter of credit subfacility and a \$10.0 million swingline loan subfacility (the “Revolving Credit Facility” and together with the 2010 Term Loan, the “2010 Credit Facility”). We were required to repay 1.00% of the principal of the 2010 Term Loan per year in quarterly installments. The credit facility also contained a number of mandatory prepayment requirements, including a requirement to repay a specified amount of the 2010 Term Loan annually from a portion of our excess cash flows (as defined in the credit facility, which varied based on our leverage ratio). Any remaining principal of the 2010 Term Loan was to be payable on the final maturity date of the facility. In February 2011, we made a prepayment of \$56.0 million on the 2010 Term Loan from our excess cash flows.

On March 14, 2011, we completed the repricing of the existing senior secured term loan facility under the 2010 Credit Facility pursuant to Amendment No. 2 to the 2010 Credit Facility (“Amendment No. 2”). Amendment No. 2 provided for the incurrence of a new senior secured loan (the “2011 Term Loan”) in an aggregate principal amount of \$1,125.0 million. The proceeds of the 2011 Term Loan, together with \$87.6 million of cash on hand, were used to repay the remaining \$1,212.6 million outstanding balance of the 2010 Term Loan in full.

The 2011 Term Loan matures in March 2017. The Revolving Credit Facility matures in June 2015 and is available to fund our working capital requirements and for other general corporate purposes. Amendment No. 2 decreased the interest rate applicable to the 2011 Term Loan from LIBOR plus 3.25% (with a leverage-based stepdown) to LIBOR plus 2.75% (with a leverage-based stepdown) and reduced the LIBOR floor applicable to the 2011 Term Loan from 1.50% to 1.00%. Prepayments or amendments of the 2011 Term Loan that constitute a “repricing transaction” (as defined in Amendment No. 2) were subject to a premium of 1.00% of the 2011 Term Loan if prepaid or amended on or prior to March 14, 2012. Prepayments and repricings made after March 14, 2012 will not be subject to premium or penalty. Amendment No. 2 contains a number of mandatory prepayment requirements, including a requirement to repay a specified amount of the 2011 Term Loan annually from a portion of our excess cash flows (as defined in the credit facility, which varies based on our leverage ratio). For unused credit under the Revolving Credit Facility, we pay an annual 0.75% non-usage fee.

On December 30, 2011, we made a \$35.0 million prepayment on the 2010 Credit Facility, as amended. This prepayment did not constitute a “repricing transaction.”

On May 4, 2012, we amended and restated the 2010 Credit Facility (as so amended and restated, the “Amended and Restated Credit Facility”). The Amended and Restated Credit Facility provides for the incurrence of a new senior secured 5-year Term Loan A Facility in an aggregate amount of \$880.0 million and a new \$100.0 million revolving credit facility (“New Revolving Credit Facility”). The proceeds of the Amended and Restated Credit Facility, together with cash on hand, were used to prepay the remaining outstanding principal of the existing Term Loan B Facility. The New Revolving Credit Facility replaces the unfunded Revolving Credit Facility in effect prior to the effectiveness of the Amended and Restated Credit Facility. The Term Loan A Facility and New Revolving Credit Facility mature on May 4, 2017. The Term Loan A Facility will initially bear interest of LIBOR plus 2.25%. The interest rate applicable to the Company’s borrowings is subject to the leverage based step-downs set forth in the Amended and Restated Credit Facility. See Item 5 “Other Information—Amended and Restated Credit Facility” and Note 14, “Subsequent Events—Credit Facility” of the Notes to the Unaudited Condensed Consolidated Financial Statements for a discussion of the Amended and Restated Credit Facility. We expect to recognize an additional expense of approximately \$18.0 million to \$20.0 million related to the accelerated amortization of existing fees or the immediate recognition of new fees associated with this transaction in the three months ending June 30, 2012.

We primarily use interest rate swaps as part of our interest rate risk management strategy. During the three months ended March 31, 2011, such derivatives were used to hedge the variable cash flows associated with existing variable-rate debt. As a result of the repayment of the 2010 Term Loan on March 14, 2011, we discontinued prospective hedge accounting on our then-existing interest rate swaps as they no longer met hedge accounting requirements. We will continue to report the net loss related to the discontinued cash flow hedges in Other comprehensive income and expect to reclassify this amount into earnings during the contractual term of the swap agreements.

On March 22, 2011, we terminated our then-existing interest rate swaps and simultaneously entered into new interest rate swaps to hedge the 2011 Term Loan variable-rate debt. As of March 31, 2012, we had two outstanding interest rate swaps with a combined notional principal amount of \$418.7 million that were designated as cash flow hedges of interest rate risk. In connection with the repayment of the Term Loan B Facility on May 4, 2012, we terminated our then-existing interest rate swaps and are not required to enter into new interest rate swaps to hedge our debt under the Amended and Restated Credit Facility.

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The effective combined rate on our hedged and unhedged debt was 3.85% for the three months ended March 31, 2012.

The obligations under the 2010 Credit Facility, as amended, were guaranteed by each of our direct and indirect wholly-owned domestic subsidiaries, subject to limited exceptions. The obligations under the 2010 Credit Facility, as amended, were secured by a lien on substantially all of the equity interests of our present and future domestic subsidiaries, up to 65% of the equity interests of our first-tier foreign subsidiaries, and substantially all of our and our domestic subsidiaries' present and future property and assets, subject to certain exceptions. The obligations under our Amended and Restated Credit Facility are similarly secured and guaranteed.

The 2010 Credit Facility, as amended, contained affirmative and restrictive covenants that, among other things, limited our ability and our existing or future subsidiaries' abilities to:

- incur liens and further negative pledges;
- incur additional indebtedness or prepay, redeem or repurchase indebtedness;
- make loans or hold investments;
- merge, dissolve, liquidate, consolidate with or into another person;
- enter into acquisition transactions;
- make capital expenditures;
- issue disqualified capital stock;
- sell, transfer or dispose of assets;
- pay dividends or make other distributions in respect of our capital stock or engage in stock repurchases, redemptions and other restricted payments;
- create new subsidiaries;
- permit certain restrictions affecting our subsidiaries;
- change the nature of our business, accounting policies or fiscal periods;
- enter into any transactions with affiliates other than on an arm's length basis;
- modify or waive material documents; and
- prepay, redeem or repurchase debt.

The Amended and Restated Credit Facility provides for substantially similar affirmative and restrictive covenants.

The 2010 Credit Facility, as amended, also required us to achieve specified financial and operating results and maintain compliance with the following financial ratios on a consolidated basis: (1) a maximum total leverage ratio (as defined in the 2010 Credit Facility, as amended) measured quarterly on a rolling four-quarter basis not exceeding 3.25:1.00 and (2) a minimum interest coverage ratio (as defined in the 2010 Credit Facility, as amended) measured quarterly on a rolling four-quarter basis of at least 5.00:1.00. As of March 31, 2012, our Consolidated Leverage Ratio as defined in the 2010 Credit Facility, as amended, was 2.41:1.00 and our Consolidated Interest Coverage Ratio as defined in the 2010 Credit Facility, as amended, was 8.96:1.00, meaning we are in compliance with the required financial ratios.

The Amended and Restated Credit Facility requires us and our subsidiaries to achieve specified financial and operating results and maintain compliance with the following financial ratios on a consolidated basis through the termination of the Amended and Restated Credit Facility: (1) the maximum total leverage ratio (as defined in the Amended and Restated Credit Facility) measured quarterly on a rolling four-quarter basis shall not exceed 3.25:1.00 and (2) the minimum interest coverage ratio (as defined in the Amended and Restated Credit Facility) measured quarterly on a rolling four-quarter basis shall be at least 5.00:1.00.

The 2010 Credit Facility, as amended, also contained customary events of default, including those relating to non-payment, breach of representations, warranties or covenants, cross-default and cross-acceleration, bankruptcy and insolvency events, invalidity or impairment of loan documentation or collateral, change of control and customary ERISA defaults. The Amended and Restated Credit Facility contains similar events of default.

We currently lease office space in New York, New York at three locations. The first two, One Chase Manhattan Plaza and 88 Pine Street, have combined annual base rents of \$3.0 million. The lease at One Chase Manhattan Plaza ends in August 2012 and the lease at 88 Pine Street ends in December 2014. On September 16, 2011, we entered into a new lease agreement with 7 World Trade Center, LLC (the "Landlord"), pursuant to which we are renting approximately 126,000 square feet of office space for our new corporate headquarters at 7 World Trade Center, New York, New York (the "Lease"). We commenced leasing the 7 World Trade Center offices on February 1, 2012 (the "Commencement Date").

The Lease is initially scheduled to expire on February 28, 2033, subject to our option to renew the Lease for an additional ten years after the initial expiration date. We also have the option to terminate the Lease early on February 1, 2028, subject to compliance with the terms and conditions of the Lease, including the payment of a termination fee. The aggregate rent over the life of the Lease is approximately \$170.1 million plus certain customary expenses. From the Commencement Date through and including January 31, 2018, the day preceding the fifth anniversary of February 1, 2013 (the "Rent Commencement Date"), the annual rent paid will be approximately \$7.3 million. Thereafter, the annual rent to be paid increases 10% on each of the fifth, tenth and fifteenth anniversaries of the Rent Commencement Date.

We expect to pay approximately \$22.0 million in build-out costs to ready the 7 World Trade Center offices into which we expect to move during the second half of the year ending December 31, 2012. We expect to receive approximately \$9.0 million in cash as a lease inducement from the Landlord during the year ending December 31, 2012. Additionally, we currently expect to recognize charges of up to approximately \$4.6 million during the second half of the year ending December 31, 2012 as we vacate the 88 Pine Street offices.

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Cash Flows

Cash and cash equivalents

	As of	
	March 31, 2012	December 31, 2011
	(in thousands)	
Cash and cash equivalents	\$266,022	\$ 252,211
Short-term investments	194,157	140,490

Cash and cash equivalents were \$266.0 million and \$252.2 million as of March 31, 2012 and December 31, 2011, respectively. As of March 31, 2012 and December 31, 2011, \$109.5 million and \$130.1 million, respectively, of the cash and cash equivalents were held by foreign subsidiaries, which could be subject to U.S. federal income taxation on repatriation to the U.S. and some of which could be subject to local country taxes if repatriated to the U.S. In addition, repatriation of some foreign cash is further restricted by local laws.

Short-term investments were \$194.2 million and \$140.5 million as of March 31, 2012 and December 31, 2011, respectively. All of the short-term investments were held by U.S. corporations and were not subject to repatriation considerations at either March 31, 2012 or December 31, 2011.

We believe that domestic cash flows from operations, together with existing cash and cash equivalents and short-term investments, will continue to be sufficient to fund our domestic operating activities and cash commitments for investing and financing activities, such as debt repayment schedules and material capital expenditures, for at least the next 12 months and for the foreseeable future thereafter. In addition, we expect existing foreign cash flows from operations, together with existing cash and cash equivalents, will continue to be sufficient to fund our foreign operating activities and cash commitments for investing activities, such as material capital expenditures, for at least the next 12 months and for the foreseeable future thereafter.

Cash provided by (used in) operating, investing and financing activities

	Three Months Ended March 31,	
	2012	2011
	(in thousands)	
Cash provided by (used in) operating activities	\$ 69,507	\$ (25,878)
Cash (used in) provided by investing activities	\$ (57,928)	\$ 18,875
Cash used in financing activities	\$ (516)	\$ (137,134)
Effect of exchange rates on cash and cash equivalents	\$ 2,748	\$ 2,354
Net increase (decrease) in cash	\$ 13,811	\$ (141,783)

Cash flows from operating activities

Cash flows from operating activities consist of net income adjusted for certain non-cash items and changes in assets and liabilities. For the three months ended March 31, 2012, we had cash provided by operating activities of \$69.5 million compared to cash used in operating activities of \$25.9 million for the three months ended March 31, 2011. The \$95.4 million year-over-year increase primarily reflects increased collections of our accounts receivable and lower payments for income taxes.

Our primary uses of cash from operating activities are for the payment of cash compensation expenses, office rent, technology costs, market data costs, interest costs and income taxes. The payment of cash for compensation and benefits is historically at its highest level in the first quarter when we pay discretionary employee compensation related to the previous fiscal year.

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Cash flows from investing activities

Cash used in investing activities was \$57.9 million for the three months ended March 31, 2012 compared to \$18.9 million of cash provided by investing activities for the three months ended March 31, 2011. The year-over-year decrease of \$76.8 million primarily reflects increased purchases and decreased proceeds from the maturation of short-term investments during the three months ended March 31, 2012.

Cash flows from financing activities

Cash used in financing activities was \$0.5 million and \$137.1 million for the three months ended March 31, 2012 and 2011, respectively. The year-over-year decrease primarily reflects the cash payments made during the three months ended March 31, 2011 to service and refinance the 2010 Credit Facility, as amended.

Off-Balance Sheet Arrangements

We do not have any relationships with unconsolidated entities or financial partnerships, such as entities often referred to as structured finance or special purpose entities, which would have been established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

Foreign Currency Risk

We are subject to foreign currency exchange fluctuation risk. Exchange rate movements can impact the U.S. dollar reported value of our revenues, expenses, assets and liabilities denominated in non-U.S. dollar currencies or where the currency of such items is different than the functional currency of the entity where these items were recorded.

A significant percentage of our revenues from our index-linked investment products are based on fees earned on the value of assets invested in securities denominated in currencies other than the U.S. dollar. For all operations outside the United States where the Company has designated the local non-U.S. dollar currency as the functional currency, revenue and expenses are translated using average monthly exchange rates and assets and liabilities are translated into U.S. dollars using month-end exchange rates. For these operations, currency translation adjustments arising from a change in the rate of exchange between the functional currency and the U.S. dollar are accumulated in a separate component of shareholders' equity. In addition, transaction gains and losses arising from a change in exchange rates for transactions denominated in a currency other than the functional currency of the entity are reflected in other non-operating expense (income).

Revenues from index-linked investment products represented approximately \$34.6 million, or 15.1%, and \$37.9 million, or 17.0%, of our operating revenues for the three months ended March 31, 2012 and 2011, respectively. While our fees for index-linked investment products are generally invoiced in U.S. dollars, the fees are based on the investment product's assets, a large majority of which are invested in securities denominated in currencies other than the U.S. dollar. Accordingly, declines in such other currencies against the U.S. dollar will decrease the fees payable to us under such licenses. In addition, declines in such currencies against the U.S. dollar could impact the attractiveness of such investment products resulting in net fund outflows, which would further reduce the fees payable under such licenses.

We generally invoice our clients in U.S. dollars; however, we invoice a portion of clients in euros, Japanese yen, pounds sterling, Canadian dollars and a limited number of other non-U.S. dollar currencies. For the three months ended March 31, 2012 and 2011, approximately 12.8% and 13.6% of our revenues, respectively, were invoiced in currencies other than U.S. dollars. For the three months ended March 31, 2012, 59.6% of our foreign currency revenues were in Euros, 23.6% were in Japanese yen and 9.5% were in British pounds sterling. For the three months ended March 31, 2011, 62.0% of our foreign currency revenues were in Euros, 20.9% were in Japanese yen and 9.6% were in British pounds sterling.

We are exposed to additional foreign currency risk in certain of our operating costs. Approximately \$52.5 million, or 35.5%, and \$51.0 million, or 34.7%, of our expenses for the three months ended March 31, 2012 and 2011, respectively, were denominated in foreign currencies, the significant majority of which were denominated in British pounds sterling, Swiss francs, Hungarian forints, Hong Kong dollars, Euros, Indian rupees and Mexican pesos. Expenses paid in foreign currency may increase as we expand our business outside the U.S.

We have certain monetary assets and liabilities denominated in currencies other than local functional amounts and when these balances were remeasured into their local functional currency, either a gain or a loss resulted from the change of

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the value of the functional currency as compared to the originating currencies. As a result of these positions, we recognized foreign currency exchange losses of \$1.6 million for the three months ended March 31, 2012 and foreign currency exchange gains of \$0.5 million for the three months ended March 31, 2011. These amounts were recorded in "Other expense (income)" in our Condensed Consolidated Statements of Income. Although we do not currently hedge the foreign exchange risk of assets and liabilities denominated in currencies other than the functional currency, we minimize exposure by reducing the value of the assets and liabilities in currencies other than the functional currency of the legal entity in which they are located.

To the extent that our international activities recorded in local currencies increase in the future, our exposure to fluctuations in currency exchange rates will correspondingly increase. Generally, we do not use derivative financial instruments as a means of hedging this risk; however, we may do so in the future. Foreign currency cash balances held overseas are generally kept at levels necessary to meet current operating and capitalization needs.

Interest Rate Sensitivity

We had unrestricted cash and cash equivalents totaling \$266.0 million, and \$252.2 million at March 31, 2012 and December 31, 2011, respectively. These amounts were held primarily in checking and money market accounts in the countries where we maintain banking relationships. The unrestricted cash and cash equivalents are held for working capital purposes. At March 31, 2012 and December 31, 2011, we had invested \$194.2 million and \$140.5 million, respectively, in debt securities with maturity dates ranging from 91 to 360 days from the date of purchase. We do not enter into investments for trading or speculative purposes. We believe we do not have any material exposure to changes in fair value as a result of changes in interest rates. Declines in interest rates, however, will reduce future interest income.

Borrowings under the credit facility, as amended, bear interest at a rate equal to the sum of the greater of LIBOR and 1.00%, and a margin of 2.50%, which margin will be subject to adjustment based on our leverage ratio.

The Company entered into interest rate swap agreements which will be amortized through August 2013. The swap agreements were designated as cash flow hedges of interest rate risk and qualify for hedge accounting treatment under ASC Subtopic 815-10. Changes in LIBOR will affect the interest rate on the portion of our credit facilities which have not been hedged by the interest rate swaps and, therefore, our costs under the credit facilities. Assuming an average of \$660.0 million of variable rate debt outstanding, a hypothetical 1.76% basis point increase in LIBOR for a one year period would result in approximately \$6.6 million of additional interest rate expense.

We recorded a pre-tax loss in other comprehensive income of \$3.1 million (\$1.9 million after tax) as of March 31, 2012 as a result of the fair value measurement of these swaps. The fair value of these swaps is included in other accrued liabilities on our Consolidated Statement of Financial Condition.

On May 4, 2012, we amended and restated our existing senior secured credit facilities consisting of a senior secured Term Loan B Facility and Senior Secured Revolving Credit Facility, which were originally entered into on June 1, 2010 as amended by Amendment No. 1 dated as of February 4, 2011 and Amendment No. 2 dated as of March 14, 2011 (the credit agreement as so amended and restated, the "Amended and Restated Credit Facility"). The Amended and Restated Credit Facility provides for the incurrence of a new senior secured 5-year Term Loan A Facility in an aggregate amount of \$880.0 million. The proceeds of the Amended and Restated Credit Facility, together with cash on hand, were used to repay the remaining outstanding principal of the existing Term Loan B Facility. In connection with the repayment of the Term Loan B Facility, we terminated our then-existing interest rate swaps. These events could result in a greater sensitivity to interest rate volatility. See "Item 1. Unaudited Condensed Consolidated Financial Statements, Note 14. 'Subsequent Events,'" of the Notes to the Unaudited Condensed Consolidated Financial Statements for additional information.

Item 4. Controls and Procedures

Our Chief Executive Officer and Chief Financial Officer have evaluated our disclosure controls and procedures, as defined in Rule 13a-15(e) of the Securities Exchange Act of 1934, as amended, (the "Exchange Act"), as of March 31, 2012, and have concluded that these disclosure controls and procedures are effective to ensure that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time specified in the SEC's rules and forms. These disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by us in the reports we file or submit is accumulated and communicated to management, including the Chief Executive Officer and the Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure. Based on this evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective as of the end of the period covered by this report.

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There were no changes during the three months ended March 31, 2012 in our internal control over financial reporting, as defined in Rule 13a-15(f) under the Exchange Act, that have materially affected or are reasonably likely to materially affect our internal control over financial reporting.

PART II

Item 1. Legal Proceedings

Various lawsuits, claims and proceedings have been or may be instituted or asserted against the Company, which arise in the ordinary course of business. While the amounts claimed could be substantial, the ultimate liability cannot now be determined because of the considerable uncertainties that exist. Therefore, it is possible that MSCI's business, operating results, financial condition or cash flows in a particular period could be materially affected by certain contingencies. However, based on facts currently available, management believes that the disposition of matters that are currently pending or asserted will not, individually or in the aggregate, have a material effect on MSCI's business, operating results, financial condition or cash flows.

Item 1A. Risk Factors

For a discussion of the risk factors affecting the Company, see "Risk Factors" in Part I, Item 1A of our Annual Report on Form 10-K for the fiscal year ended December 31, 2011. The risk factors presented below supplement, update, supersede and/or replace, as appropriate, risk factors appearing under the heading "Risk Related to Our Business" in that Annual Report.

If we lose key outside suppliers of data and products or if the data or products of these suppliers have errors or are delayed, we may not be able to provide our clients with the information and products they desire.

Our ability to produce our products and develop new products is dependent upon the products of other suppliers, including certain data, software and service suppliers. Our index and analytics products are dependent upon (and of little value without) updates from our data suppliers and most of our software products are dependent upon (and of little value without) continuing access to historical and current data. Throughout our businesses, we utilize certain data provided by third party data sources in a variety of ways, including large volumes of data from certain stock exchanges around the world. As of December 31, 2011, we had over 200 such data suppliers. If the data from our suppliers has errors, is delayed, has design defects, is unavailable on acceptable terms or is not available at all, our business, financial condition or results of operations could be materially adversely affected.

Many of our data suppliers compete with one another and, in some cases, with us. For example, ISS relies on a data feed agreement with Broadridge Financial Solutions which allows for a large number of proxy ballots to be received, and proxy votes to be processed, electronically, minimizing the manual aspects of the proxy voting process and limiting the risk of error inherent in manual processes. If the data feed agreement with Broadridge was terminated, we would have to incur significant expenses in order to input our clients' voting instructions directly into Broadridge's proprietary electronic voting systems and our business and results of operations would be materially and adversely affected. Since ISS also competes with Broadridge in some markets with respect to providing certain aspects of proxy voting services, there may be circumstances under which Broadridge may have an incentive to not renew ISS's data feed agreement or to offer renewal terms which we may deem unreasonable. Some of our agreements with data suppliers allow them to cancel on short notice and we have not completed formal agreements with all of our data suppliers, such as certain stock exchanges. From time to time we receive notices from data suppliers, including stock exchanges, threatening to terminate the provision of their data to us, and some data suppliers, including at least one stock exchange, have terminated the provision of their data to us. For example, the BM&FBOVESPA Exchange ("BVMF") in Brazil has notified us that if we do not reach a formal agreement regarding our use of BVMF's real time price data, BVMF will consider taking a number of actions, including terminating the Company's access to BVMF's real time price data. Termination of one or more of our significant data agreements or exclusion from, or restricted use of, or litigation in connection with, a data provider's information could decrease the available information for us to use (and offer our clients) and may have a material adverse effect on our business, financial condition or results of operations.

Although data suppliers and stock exchanges typically benefit from providing broad access to their data, some of our competitors could enter into exclusive contracts with our data suppliers, including with certain stock exchanges. If our competitors enter into such exclusive contracts, we may be precluded from receiving certain data from these suppliers or restricted in our use of such data, which would give our competitors a competitive advantage. Such exclusive contracts could hinder our ability to provide our clients with the data they prefer, which could lead to a decrease in our client base and could have a material adverse effect on our business, financial condition or results of operations.

Some data suppliers have sought and others may seek to increase licensing fees for providing their content to us. If we are unable to renegotiate acceptable licensing arrangements with these data suppliers or find alternative sources of equivalent content, we may be required to reduce our profit margins or experience a reduction in our market share.

Our indebtedness could materially adversely affect our business, financial condition or results of operations.

On May 4, 2012, we amended and restated our existing senior secured credit facilities consisting of a senior secured Term Loan B Facility and Revolving Credit Facility, which were originally entered into on June 1, 2010 as amended by Amendment No. 1 dated as of February 4, 2011 and Amendment No. 2 dated as of March 14, 2011 (the credit facility as so amended and restated, the “Amended and Restated Credit Facility”). The Amended and Restated Credit Facility provides for the incurrence of a new senior secured 5-year Term Loan A Facility in an aggregate amount of \$880.0 million and a new \$100.0 million senior secured revolving facility (“New Revolving Credit Facility”). The proceeds of the Amended and Restated Credit Facility, together with cash on hand, were used to prepay the remaining outstanding principal of the existing Term Loan B Facility. The Term Loan A Facility and New Revolving Credit Facility mature on May 4, 2017.

The Amended and Restated Credit Facility is guaranteed on a senior secured basis by each of our direct and indirect wholly-owned domestic subsidiaries and secured by a valid and perfected first priority lien and security interest in substantially all of the shares of the capital stock of our present and future domestic subsidiaries and up to 65% of the shares of capital stock of our foreign subsidiaries, substantially all of our and our domestic subsidiaries’ present and future property and assets and the proceeds thereof. In addition, the Amended and Restated Credit Facility contains restrictive covenants that limit our ability and our existing and future subsidiaries’ abilities to, among other things, incur liens; incur additional indebtedness; make or hold investments; make acquisitions, merge, dissolve, liquidate, consolidate with or into another person; sell, transfer or dispose of assets; pay dividends or other distributions in respect of our capital stock; change the nature of our business; enter into any transactions with affiliates other than on an arm’s length basis; and prepay, redeem or repurchase debt.

The Amended and Restated Credit Facility also requires us and our subsidiaries to achieve specified financial and operating results and maintain compliance with the following financial ratios on a consolidated basis until the termination of the Amended and Restated Credit Facility: (1) the maximum total leverage ratio (as defined in the Amended and Restated Credit Facility) measured quarterly on a rolling four-quarter basis shall not exceed 3.25:1.00 and (2) the minimum interest coverage ratio (as defined in the Amended and Restated Credit Facility) measured quarterly on a rolling four-quarter basis shall be at least 5.00:1.00.

In addition, our Amended and Restated Credit Facility contains the following affirmative covenants, among others: periodic delivery of financial statements, budgets and officer’s certificates; payment of other obligations; compliance with laws and regulations; payment of taxes and other material obligations; maintenance of property and insurance; performance of material leases; right of the lenders to inspect property, books and records; notices of defaults and other material events; and maintenance of books and records.

We may need to incur additional indebtedness in the future in the ordinary course of business. Our level of indebtedness could increase our vulnerability to general economic consequences; require us to dedicate a substantial portion of our cash flow and proceeds of any additional equity issuances to payments of our indebtedness; make it difficult for us to optimally capitalize and manage the cash flow for our business; limit our flexibility in planning for, or reacting to, changes in our business and the markets in which we operate; place us at a competitive disadvantage to our competitors that have less debt; limit our ability to borrow money or sell stock to fund our working capital and capital expenditures; limit our ability to consummate acquisitions; and increase our interest expense.

We have engaged in hedging transactions and may engage in other hedging transactions which involve risks that could have a materially adverse effect on our financial condition or results of operations.

In July 2010 and March 2011, we entered into interest rate swap agreements to reduce our interest rate risk and to manage interest expense under our then-existing credit facilities. On May 4, 2012, we terminated our then-existing interest rate swaps in connection with the execution of the Amended and Restated Credit Facility. While we are not required to enter into new interest rate swaps to hedge our debt under the Amended and Restated Credit Facility, we may engage in similar transactions in the future. Our interest rate swaps effectively changed a portion of our variable-rate debt obligations pursuant to our credit facilities to fixed-rate debt obligations. Developing an effective strategy for movements in interest rates is complex, and no strategy can completely insulate us from risks associated with such fluctuations. In addition, the counterparty to a derivative instrument could default on its obligation thereby exposing us to credit risk. Further, we may have to repay certain costs, such as transaction fees or brokerage costs, if a derivative instrument is terminated by us. Finally, our interest rate risk management activities could expose us to substantial losses if interest rates move materially differently from our expectations. As a result, our economic hedging activities may not effectively manage our interest rate sensitivity or have the desired beneficial impact on our financial condition or results of operations.

[Table of Contents](#)**Item 2. Unregistered Sales of Equity Securities and Use of Proceeds**

There have been no unregistered sales of equity securities.

The table below sets forth the information with respect to purchases made by or on behalf of the Company of its common shares during the quarter ended March 31, 2012.

Issuer Purchases of Equity Securities

<u>Period</u>	<u>Total Number of Shares Purchased</u>	<u>Average Price Paid Per Share</u>	<u>Total Number of Shares Purchased As Part of Publicly Announced Plans or Programs</u>	<u>Approximate Dollar Value of Shares that May Yet Be Purchased Under the Plans or Programs</u>
Month #1 (January 1, 2012-January 31, 2012)				
Employee Transactions ⁽¹⁾	70,039	\$ 32.97	N/A	N/A
Month #2 (February 1, 2012-February 29, 2012)				
Employee Transactions ⁽¹⁾	—	\$ —	N/A	N/A
Month #3 (March 1, 2012-March 31, 2012)				
Employee Transactions ⁽¹⁾	—	\$ —	N/A	N/A
Total				
Employee Transactions ⁽¹⁾	<u>70,039</u>	\$ 32.97	N/A	N/A

⁽¹⁾ Includes (i) shares withheld to satisfy tax withholding obligations on behalf of employees that occur upon vesting and delivery of outstanding shares underlying restricted stock units and (ii) shares repurchased from employees in certain foreign jurisdictions in connection with the vesting of those restricted stock units. The value of the shares withheld were determined using the fair market value of the Company's class A common shares on the date of withholding, using a valuation methodology established by the Company.

Item 3. Defaults Upon Senior Securities

None.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information**Amended and Restated Credit Facility**

On May 4, 2012, we amended and restated our existing senior secured credit facilities consisting of a senior secured Term Loan B Facility and revolving credit facility, which were originally entered into on June 1, 2010 and amended by Amendment No. 1 dated as of February 4, 2011 and Amendment No. 2 dated as of March 14, 2011 (the credit facilities as so amended and restated, the "Amended and Restated Credit Facility").

The Amended and Restated Credit Facility provides for the incurrence of a new senior secured 5-year Term Loan A Facility in an aggregate amount of \$880.0 million and a new \$100.0 million revolving credit facility ("New Revolving Credit Facility"). The proceeds of the Amended and Restated Credit Facility, together with cash on hand, were used to prepay the remaining outstanding principal of the existing Term Loan B Facility. The Term Loan A Facility and New Revolving Credit Facility mature on May 4, 2017.

The Term Loan A Facility will initially bear interest of LIBOR plus 2.25%. The interest rate applicable to the Company's borrowings is subject to the leverage based step-downs set forth in the Amended and Restated Credit Facility.

See Part II, Item 1A, Risk Factors—“*Our Indebtedness could materially adversely affect our business, financial condition or results of operations*” for a summary of the basis on which the obligations under the Amended and Restated Security Agreement are secured and the restrictive and affirmative covenants, including financial ratios with which the Company must comply. See Note 14, “Subsequent Events—Credit Facility” of the Notes to the Unaudited Condensed Consolidated Financial Statements and for a discussion of the Amended and Restated Credit Facility.

The foregoing description of the Amended and Restated Credit Facility is qualified in its entirety by reference to the full text of the Amended and Restated Credit Facility, a copy of which is filed herewith as Exhibit 10.26.

Third Amended and Restated Certificate of Incorporation

At MSCI’s annual shareholders meeting held on May 2, 2012, the shareholders approved amendments to the Company’s Amended and Restated Certificate of Incorporation to (i) eliminate the 250 million authorized shares of class B common stock, (ii) increase the total number of authorized shares of class A common stock by 250 million (the aggregate number of shares of class B common stock being eliminated) to 750 million, (iii) rename the Company’s class A common stock as “common stock” and (iv) make certain other conforming changes. The amendments became effective upon the filing of the Third Amended and Restated Certificate of Incorporation with the Secretary of State of the State of Delaware on May 2, 2012. A copy of the Third Amended and Restated Articles of Incorporation, dated May 2, 2012, is filed herewith as Exhibit 3.1.

Amended and Restated Bylaws of the Company

On May 1, 2012, the Board of Directors of the Company adopted Amended and Restated Bylaws of the Company to, among other things, (i) clarify that stockholder meetings may be held by means of remote communication, (ii) clarify that stockholders and proxy holders may attend and vote by remote communication, (iii) provide that all matters other than the election of directors submitted to stockholders are decided by the vote of the majority of all votes cast with respect to the matter (except in contested elections, where each director is elected by the vote of the majority of all votes cast with respect to that director), (iv) provide that records of actions taken without a meeting of the Board of Directors may be maintained in electronic form and (v) provide that attendance at a meeting shall constitute waiver of notice of such meeting, except where the person attends the meeting for the express purpose of objecting to the meeting because it was not lawfully called or convened.

The Amended and Restated Bylaws were deemed effective immediately upon adoption and supersede and replace the existing bylaws of the Company. The foregoing description of the amendment to the Company’s Amended and Restated Bylaws of the Company is qualified in its entirety by reference to the full text of the Amended and Restated Bylaws of the Company, a copy of which is filed herewith as Exhibit 3.2.

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Item 6. Exhibits

An exhibit index has been filed as part of this Report on page E-1.

SIGNATURES

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

Dated: May 4, 2012

MSCI INC.
(Registrant)

By: /s/ David M. Obstler
David M. Obstler
Chief Financial Officer, Principal Financial Officer,
Principal Accounting Officer and Authorized Signatory

EXHIBIT INDEX

MSCI INC.

QUARTER ENDED MARCH 31, 2012

# 3.1	Third Amended and Restated Certificate of Incorporation
# 3.2	Amended and Restated Bylaws
#4.1	Form of Common Stock Certificate
#10.26	Amended and Restated Credit Agreement dated as of May 4, 2012 among MSCI Inc., as the Borrower, Morgan Stanley Senior Funding, Inc., as Administrative Agent, Swing Line Lender and L/C Issuer, Morgan Stanley & Co. Incorporated, as Collateral Agent and the other lenders party thereto
*#10.36	Form of Award Agreement for Restricted Stock Units for Directors under the MSCI Inc. Independent Directors' Equity Compensation Plan.
11	Statement Re: Computation of Earnings Per Common share (The calculation of per share earnings is in Part I, Item 1, Note 4 to the Condensed Consolidated Financial Statements (Earnings Per Common Share) and is omitted in accordance with Section (b)(11) of Item 601 of Regulation S-K)
# 15	Letter of awareness from Deloitte & Touche LLP, dated May 4, 2012, concerning unaudited interim financial information
# 31.1	Rule 13a-14(a) Certification of the Chief Executive Officer
# 31.2	Rule 13a-14(a) Certification of the Chief Financial Officer
** 32.1	Section 1350 Certification of the Chief Executive Officer and the Chief Financial Officer
*** 101.INS	XBRL Instance Document
*** 101.SCH	XBRL Taxonomy Extension Schema Document
*** 101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document
*** 101.LAB	XBRL Taxonomy Extension Label Linkbase Document
*** 101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document
*** 101.DEF	XBRL Taxonomy Extension Definition Linkbase Document
#	Filed herewith.
*	Indicates management compensation plan, contract or arrangement.
**	Furnished herewith.
***	As provided in Rule 406T of Regulation S-T, this information is furnished and not filed for purposes of Sections 11 and 12 of the Securities Act of 1933 and Section 18 of the Securities Exchange Act of 1934.

THIRD AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
MSCI INC.
May 2, 2012

MSCI Inc. (originally incorporated as Morgan Stanley Capital International Inc.), a Delaware corporation, the original Certificate of Incorporation of which was filed with the Secretary of State of the State of Delaware on July 2, 1998 and amended and restated on November 14, 2007, HEREBY CERTIFIES that this further Third Amended and Restated Certificate of Incorporation restating, integrating and amending its Amended and Restated 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 19801. 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

(a) *Authorized Stock*. The total number of shares of stock which the Corporation shall have authority to issue is 850,000,000, consisting of 750,000,000 shares of common stock, par value \$0.01 per share (the “**Common Stock**”) and 100,000,000 shares of preferred stock, par value \$0.01 per share (the “**Preferred Stock**”). Effective upon the filing of this Amended and Restated Certificate of Incorporation, without any further action on the part of the Corporation or its stockholders, (i) each share of the Corporation’s Class A common stock, par value \$0.01 per share (the “Class A Common Stock”) outstanding immediately prior thereto shall be redesignated as one share of Common Stock and (ii) all references to the Class A Common Stock or any right to purchase or acquire the Class A Common Stock (whether in the Certificate of Incorporation or otherwise) shall refer to the Common Stock. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares of 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.

(b) *Common Stock* 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, each share of Common Stock outstanding on any record date shall be entitled to one vote upon all matters upon which stockholders shall have the right to vote. The holders of Common Stock are not entitled to cumulative voting rights.

(c) *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

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 (b) 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

The Corporation expressly elects to 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.

This Certificate shall become effective upon the filing of this Third Amended and Restated Certificate of Incorporation with the Secretary of State of the State of Delaware.

IN WITNESS WHEREOF, MSCI Inc. has caused this Third Amended and Restated Certificate of Incorporation to be signed in its name on the date included above.

MSCI INC.

By: /s/ Gary Retelny

Name: Gary Retelny

Title: Corporate Secretary

AMENDED AND RESTATED BYLAWS**OF****MSCI INC.****(hereinafter called the "Corporation")****ARTICLE 1
OFFICES AND RECORDS**

Section 1.01. *Registered Office.* The registered 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, both 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 within or without 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.* An annual meeting of the stockholders of the Corporation shall be held for the election of directors and to transact any other business as may properly be brought before the meeting.

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 Third 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. *Time and Place of Meetings.* All meetings of stockholders shall be held at such place, either within or without the State of Delaware, on such date and at such time as may be determined from time to time by the Board of Directors. The Board of Directors may, in its sole discretion, determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication in the manner authorized by the General Corporation Law of the State of Delaware as the same exists or hereafter may be amended (“**Delaware Law**”).

Section 2.04. *Notice of Meeting.* Whenever stockholders are required or permitted to take any action at a meeting, a written notice of the meeting shall be given which shall state the place, if any, date and hour of the meeting, the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, the record date for determining the stockholders entitled to vote at the meeting, if such date is different from the record date for determining stockholders entitled to notice of the meeting, and, in the case of a special meeting, the purpose or purposes for which such special meeting is called. Unless otherwise provided by Delaware Law, such notice shall be given 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 entitled to vote at such meeting as of the record date for determining the stockholders entitled to notice of the meeting. 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 Third 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, 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). 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. When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time, place, if any, thereof and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken. At the adjourned meeting the Corporation may transact any business which might have been transacted at the original meeting. Except as otherwise provided by Delaware Law, if the adjournment is for more than thirty (30) days, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If after the adjournment a new record date for stockholder entitled to vote is fixed for the adjourned meeting, the Board of Directors shall fix a new record date for notice of such adjourned meeting in accordance with Delaware Law and shall give notice of the adjourned meeting to each stockholder of record entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting.

Section 2.06. *Proxies.* At all meetings of stockholders, each stockholder entitled to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for such stockholder by proxy as may be permitted by law; *provided*, that no proxy shall be voted or acted upon 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) 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. 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 Third 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 Third Amended and Restated Certificate of Incorporation, to elect directors pursuant to any applicable provisions of the Third Amended and Restated Certificate of Incorporation.

Section 2.08. *Procedure for Election of Directors; Voting.* Except as otherwise provided by law, the Third 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 vote of the majority of all votes cast with respect to the matter at any meeting for such matter at which a quorum is present, and where a separate vote by class is required, the majority of all votes of such class cast with respect to the matter at any meeting for such matter at which a quorum exists.

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 Delaware Law.

(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.* Except as otherwise required by Delaware Law or the Third Amended and Restated Certificate of Incorporation, the business and affairs of the Corporation shall be managed by or under the direction of its Board of Directors, and the Board of Directors may exercise all such powers of the Corporation and do all such lawful acts and things.

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 Third 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. Directors need not be stockholders.

(b) Except as otherwise provided in this Section 3.02, each director shall be elected by the vote of the majority of all 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 Third 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. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

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 other 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 Delaware Law, the Third 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, who shall have the duty, among other things, to record the proceedings of the meetings of the stockholders and directors in a book to be kept for that purpose; 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 Third 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 shares of the Corporation shall be represented by certificates; *provided* that the Board of Directors may provide by resolution or resolutions that some or all of any or all classes or series of the stock of the Corporation shall be uncertificated shares.

Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the Corporation. 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 Delaware Law or, unless otherwise provided by Delaware 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.

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 Delaware Law, written waiver of any such notice signed by the person entitled to 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. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends the meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders, directors or members of a committee of directors need be specified in any written waiver of notice or any waiver by electronic transmission.

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 Delaware Law 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 Third 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 Delaware Law.

(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 Third 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 Third 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
 Common Stock

Per Share for
 Extra Dividend

This is to Certify that _____ is the owner of _____ fully paid and non-assessable shares of the above Corporation, transferable only on the books of the Corporation by the holder hereof in person or by 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

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 TRANSFERS MIN ACT.....Custodian..... | (Minor) |
| TEN ENT | - as tenants by the entireties | under Uniform Transfers to Minors Act..... | (State) |
| JT TEN | - as joint tenants with right of survivorship and not as tenants in common | | |

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 represented by the within Certificate, and do hereby irrevocably constitute and appoint

_____ Attorney to transfer the said Shares on the books of the within named Corporation with full power of substitution in the premises.

Dated _____ In presence of _____

NOTICE: THE SIGNATURE TO THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THE CERTIFICATE IN EVERY PARTICULAR WITHOUT ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATSOEVER.

AMENDED AND RESTATED CREDIT AGREEMENT

Dated as of May 4, 2012

among

MSCI INC.,
as the Borrower,

MORGAN STANLEY SENIOR FUNDING, INC.,
as Administrative Agent, Swing Line Lender and L/C Issuer,

MORGAN STANLEY & CO. INCORPORATED,
as Collateral Agent,

and

The Other Lenders Party Hereto

MORGAN STANLEY MUFG LOAN PARTNERS, LLC,
J.P. MORGAN SECURITIES LLC and
FIFTH THIRD BANK,
as Joint Lead Arrangers and Joint Book-Runners,

J.P. MORGAN SECURITIES LLC,
as Syndication Agent,

and

BANK OF AMERICA, N.A.,
THE ROYAL BANK OF SCOTLAND PLC,
TD BANK, N.A.,
COMPASS BANK and
HSBC BANK USA, NATIONAL ASSOCIATION
as Documentation Agents

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AMENDED AND RESTATED CREDIT AGREEMENT

This AMENDED AND RESTATED CREDIT AGREEMENT is entered into as of May 4, 2012, among MSCI Inc., a Delaware corporation (the “Borrower”), each lender from time to time party hereto (collectively, the “Lenders” and individually, a “Lender”), MORGAN STANLEY SENIOR FUNDING, INC., as Administrative Agent, Swing Line Lender and L/C Issuer, and MORGAN STANLEY & CO. INCORPORATED, as Collateral Agent.

PRELIMINARY STATEMENTS:

WHEREAS, pursuant to the Credit Agreement, dated as of the Original Closing Date (the “Original Credit Agreement”), among the Borrower, MSSF, as Administrative Agent, Swing Line Lender and L/C Issuer, and the other parties thereto, the lenders thereunder extended credit to the Borrower in the form of (a) term loans in an aggregate principal amount of \$1,275,000,000 and (b) a revolving credit facility in an aggregate principal amount of \$100,000,000;

WHEREAS, the Borrower has requested that (a) the Lenders extend credit in the form of (i) Tranche A Term Loans in an aggregate principal amount equal to \$880,000,000, the proceeds of which the Borrower will use, together with cash on hand, to prepay all of the loans outstanding under the Original Credit Agreement simultaneously with the effectiveness of this Agreement and (ii) Revolving Credit Loans at any time and from time to time prior to the Maturity Date for the Revolving Credit Facility, in an aggregate principal amount at any time outstanding not in excess of \$100,000,000 and (b) the L/C Issuer issue Letters of Credit for the account of the Borrower or its Subsidiaries.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereto agree to amend and restate the Original Credit Agreement, and the Original Credit Agreement is hereby amended and restated, in its entirety as follows:

ARTICLE I DEFINITIONS AND ACCOUNTING TERMS

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

“Additional Commitments” means Additional Revolving Credit Commitments or Additional Term Commitments.

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

“Additional Credit Extension Amendment” means an amendment to this Agreement (which may, at the option of the Administrative Agent, be in the form of an amendment and restatement of this Agreement) providing for any Additional Commitments pursuant to Section 2.14, Extended Term Loans and/or Extended Revolving Credit Commitments pursuant to Section 2.18, Refinancing Term Loans pursuant to Section 2.19, and/or Replacement Revolving Credit Commitments pursuant to Section 2.20, which shall be

consistent with the applicable provisions of this Agreement and otherwise reasonably satisfactory to the parties thereto. Each Additional Credit Extension Amendment shall be executed by the Administrative Agent, the L/C Issuer and/or the Swing Line Lender (to the extent Section 10.01 would require the consent of the L/C Issuer and/or the Swing Line Lender, respectively, for the amendments effected in such Additional Credit Extension Amendment), the Loan Parties and the other parties specified in the applicable Section of this Agreement (but not any other Lender not specified in the applicable Section of this Agreement), but shall not effect any amendments that would require the consent of each affected Lender or all Lenders pursuant to the proviso in the first paragraph of Section 10.01. Any Additional Credit Extension Amendment may include conditions for delivery of opinions of counsel and other documentation consistent with the conditions in Section 4.01 of the Original Credit Agreement and certificates confirming satisfaction of conditions consistent with Section 4.02, all to the extent reasonably requested by the Administrative Agent or the other parties to such Additional Credit Extension Amendment.

“Additional Institutional Term Loans” means Additional Term Loans that are Institutional Term Loans.

“Additional Non-Institutional Term Loans” means Additional Term Loans that are not Institutional Term Loans.

“Additional Revolving Credit Commitments” has the meaning specified in Section 2.14(a).

“Additional Term Commitments” has the meaning specified in Section 2.14(a).

“Additional Term Loans” means loans made pursuant to Additional Term Commitments.

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

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

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

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

“Agent Parties” has the meaning specified in Section 10.02(c).

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

“Agreement” means this Amended and Restated Credit Agreement as amended from time to time in accordance with the terms hereof.

“Amendment and Restatement Effective Date” has the meaning specified in Section 4.01.

“Anti-Money Laundering Laws” means any and all laws, judgments, orders, executive orders, decrees, ordinances, rules, regulations, statutes, case law or treaties applicable to a Loan Party, its subsidiaries or Affiliates, related to terrorism financing or money laundering including any applicable provision of Title III of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act) of 2001 (Title III of Pub. L. 107-56) and The Currency and Foreign Transactions Reporting Act (also known as the “Bank Secrecy Act”, 31 U.S.C. §§ 5311-5330 and 12 U.S.C. §§ 1818(s), 1820(b) and 1951-1959).

“Applicable Fee Rate” means (i) from the Amendment and Restatement Effective Date to the date on which the Administrative Agent receives a Compliance Certificate pursuant to Section 6.02(a) for the fiscal quarter during which the Amendment and Restatement Effective Date occurs, 0.50% per annum and (ii) thereafter, the applicable percentage per annum set forth below determined by reference to the Consolidated Leverage Ratio as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 6.02(a):

<u>Pricing Level</u>	<u>Consolidated Leverage Ratio</u>	<u>Applicable Fee Rate</u>
1	£ 1.50:1.00	0.250%
2	> 1.50:1.00 and £ 1.75:1.00	0.375%
3	> 1.75:1.00	0.500%

Any increase or decrease in the Applicable Fee Rate resulting from a change in the Consolidated Leverage Ratio shall become effective as of the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 6.02(a); provided, however, that if a Compliance Certificate is not delivered when due in accordance with such Section, then, upon the written request of the Required Revolving Lenders, Pricing Level 3 shall apply, as of the first Business Day after the date on which such Compliance Certificate was required to have been delivered until the first Business Day immediately following delivery of such Compliance Certificate, at which time the Applicable Fee Rate shall be determined based on such Compliance Certificate. If at any time an Event of Default shall have occurred and be continuing, then, upon the written request of the Required Revolving Lenders, Pricing Level 3 shall apply as of the first Business Day after the date on which the Borrower shall have received such request until the first Business Day on which such Event of Default is waived or no longer exists.

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

“**Applicable Percentage**” means (a) in respect of any Class of Term Loans, with respect to any Term Lender under such Class at any time, the percentage (carried out to the ninth decimal place) of such Class of Term Loans represented by the principal amount of such Term Lender’s Term Loans of such Class at such time and (b) in respect of the Revolving Credit Facility, with respect to any Revolving Credit Lender at any time, the percentage (carried out to the ninth decimal place) of the Revolving Credit Facility represented by such Revolving Credit Lender’s Revolving Credit Commitment at such time, subject to adjustment as provided in Section 2.16. If the commitment of each Revolving Credit Lender to make Revolving Credit Loans and the obligation of the L/C Issuer to make L/C Credit Extensions have been terminated pursuant to Section 8.02, or if the Revolving Credit Commitments have expired, then the Applicable Percentage of each Revolving Credit Lender in respect of the Revolving Credit Facility shall be determined based on the Applicable Percentage of such Revolving Credit Lender in respect of the Revolving Credit Facility most recently in effect, giving effect to any subsequent assignments. The Applicable Percentage of each Lender in respect of each Facility as of the Amendment and Restatement Effective Date is set forth opposite the name of such Lender on Schedule 2.01.

“**Applicable Rate**” means, from the Amendment and Restatement Effective Date to the date on which the Administrative Agent receives a Compliance Certificate pursuant to Section 6.02(a) for the fiscal quarter during which the Amendment and Restatement Effective Date occurs, 1.25% per annum for Base Rate Loans and 2.25% per annum for Eurodollar Rate Loans and Letter of Credit Fees and (ii) thereafter, the applicable percentage per annum set forth below determined by reference to the Consolidated Leverage Ratio as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 6.02(a):

Applicable Rate

<u>Pricing Level</u>	<u>Consolidated Leverage Ratio</u>	<u>Eurodollar Rate (Letters of Credit)</u>	<u>Base Rate Loans</u>
1	£ 1.25:1.00	1.50%	0.50%
2	> 1.25:1.00 and £ 1.50:1.00	1.75%	0.75%
3	> 1.50:1.00 and £ 1.75:1.00	2.00%	1.00%
4	> 1.75:1.00	2.25%	1.25%

Any increase or decrease in the Applicable Rate resulting from a change in the Consolidated Leverage Ratio shall become effective as of the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 6.02(a); provided, however, that if a Compliance Certificate is not delivered when due in accordance with such Section, then, upon the written request of the Required Lenders, Pricing Level 4 shall apply as of the first Business Day after the date on which such Compliance Certificate was required to have been delivered until the first Business Day immediately following delivery of such Compliance Certificate, at which time the Applicable Rate shall be determined based on such Compliance Certificate. If at any time an Event of Default shall have occurred and be continuing, then, upon the written request of the Required Lenders, Pricing Level 4 shall apply as of the first Business Day after the date on which the Borrower shall have received such request until the first Business Day on which such Event of Default is waived or no longer exists.

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

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

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

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

“ARCA Transaction” means, collectively, (i) entering into this Agreement, (ii) the transactions described in the second paragraph of the Preliminary Statements, and (iii) the payment of the fees and expenses incurred in connection with the foregoing.

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

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

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

“Auction Manager” has the meaning specified in Section 2.17(a).

“Auction Notice” means an auction notice given by the Borrower in accordance with the Auction Procedures with respect to a Discounted Prepayment Offer.

“Auction Procedures” means the auction procedures with respect to Discounted Prepayment Offers set forth in Exhibit I hereto.

“Audited Financial Statements” means the audited consolidated statements of financial condition of the Borrower and its Subsidiaries for the fiscal year ended December 31, 2011, and the related consolidated statements of income, comprehensive income, shareholders’ equity and cash flows for such fiscal year of the Borrower and its Subsidiaries, including the notes thereto.

“Auto-Extension Letter of Credit” has the meaning specified in Section 2.03(b)(iii).

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

“Base Rate” means for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Rate plus 1/2 of 1%, (b) the rate of interest, if any, quoted for such day in The Wall Street Journal as the “U.S. Prime Rate” and (c) the Eurodollar Rate for an Interest Period of one month beginning on such day (or if such day is not a Business Day, the Business Day immediately preceding such day) plus 1.00% per annum.

“Base Rate Loan” means a Loan that bears interest based on the Base Rate.

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

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

“Borrowing” means a borrowing of Loans pursuant to Section 2.01 or pursuant to any Additional Credit Extension Amendment.

“Business Day” means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, New York, New York and, if such day relates to any Eurodollar Rate Loan, means any such day that is also a London Banking Day.

“Capital Expenditures” means, with respect to any Person for any period, any expenditure in respect of the purchase or other acquisition of any fixed or capital asset (excluding normal replacements and maintenance which are properly charged to current operations) that are (or are required to be) set forth in a consolidated statement of cash flows of such Person for such period in accordance with GAAP. For purposes of this definition, (a) the purchase price of equipment that is purchased substantially contemporaneously with the trade-in of other equipment shall be included in Capital Expenditures only to the extent of the gross amount by which such purchase price exceeds the credit granted by the seller of such equipment for the equipment being traded in at such time and (b) “Capital Expenditures” shall not include expenditures (i) made to restore, replace, rebuild, develop, maintain, improve or upgrade property, to the extent such expenditure is made with, or subsequently reimbursed out of,

insurance proceeds, indemnity payments, condemnation awards (or payments in lieu thereof) or damage recovery proceeds or other settlements relating to any damage, loss, destruction or condemnation of such property, (ii) constituting reinvestment of the Net Cash Proceeds of any Disposition, to the extent permitted under Section 2.05(b)(ii), (iii) made by the Borrower or any of its Subsidiaries as payment of the consideration for Permitted Acquisitions, (iv) made by the Borrower or any of its Subsidiaries to effect leasehold improvements to any property leased by the Borrower or any of its Subsidiaries as lessee, to the extent that such expenses have been reimbursed in cash by the landlord, (v) actually paid for or reimbursed by a third party (excluding the Borrower and any of its Subsidiaries) and for which none of the Borrower and its Subsidiaries has provided or is required to provide or incur, directly or indirectly, any consideration or monetary obligation to such third party or any other person (whether before, during or after such period), or (vi) made with the Equity Net Cash Proceeds from the sale or issuance of Qualified Equity Interests of the Borrower that are Not Otherwise Applied.

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

“Cash Collateralize” means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of the Administrative Agent, L/C Issuer or Swing Line Lender (as applicable) and the Lenders, as collateral for L/C Obligations, Obligations in respect of Swing Line Loans, or obligations of Lenders to fund participations in respect of either thereof (as the context may require), cash or deposit account balances or, if the L/C Issuer or Swing Line Lender benefiting from such collateral shall agree in its sole discretion, other credit support, in each case pursuant to documentation in form and substance reasonably satisfactory to (a) the Administrative Agent and (b) the L/C Issuer or the Swing Line Lender (as applicable). “Cash Collateral” shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

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

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

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

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

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

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

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

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

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

"Cash Management Agreement" means any agreement to provide cash management services, including treasury, depository, overdraft, credit or debit card, electronic funds transfer, credit card or purchase card services and other cash management arrangements.

"Cash Management Bank" means any Person that, at the time it enters into a Cash Management Agreement, is a Lender or an Affiliate of a Lender.

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

"Change in Law" means the occurrence, after the Amendment and Restatement Effective Date, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines

or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted or issued.

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

(a) any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, but excluding any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) becomes the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934), directly or indirectly, of equity securities of the Borrower representing more than 35% of the combined voting power of all of the issued and outstanding equity securities of the Borrower entitled to vote for members of the board of directors or equivalent governing body of the Borrower; or

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

“Class” means (i) with respect to any Commitment, its character as a Revolving Credit Commitment, a Tranche A Term Loan Commitment or any other group of Commitments (whether established by way of new Commitments or by way of conversion or extension of existing Commitments or Loans) designated as a “Class” in an Additional Credit Extension Amendment and (ii) with respect to any Loans, its character as a Revolving Credit Loan, a Swing Line Loan, a Tranche A Term Loan or any other group of Loans (whether made pursuant to new Commitments or by way of conversion or extension of existing Loans) designated as a “Class” in an Additional Credit Extension Amendment; provided that (x) in no event shall there be more than three Classes of revolving credit commitments or more than three Classes of revolving credit loans outstanding at any time and (y) notwithstanding anything to the contrary, the borrowing and repayment of Revolving Credit Loans shall be made on a pro rata basis across all Classes of Revolving Credit Loans (except to the extent that any applicable Additional Credit Extension Amendment provides that the Class of Revolving Credit Loans established thereunder

shall be entitled to less than pro rata treatment), and any termination of Revolving Credit Commitments shall be made on a pro rata basis across all Classes of Revolving Credit Commitments (except to the extent that any applicable Additional Credit Extension Amendment provides that the Class of Revolving Credit Commitments established thereunder shall be entitled to less than pro rata treatment). Commitments or Loans that have different maturity dates, pricing (other than upfront fees) or other terms shall be designated separate Classes.

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

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

“Collateral Agent” means Morgan Stanley & Co. Incorporated in its capacity as collateral agent under any of the Collateral Documents or any successor or replacement collateral agent.

“Collateral Documents” means, collectively, the Security Agreement, the Intellectual Property Security Agreement, the Mortgages, each of the mortgages, collateral assignments, Security Agreement Supplements, IP Security Agreement Supplements, security agreements, pledge agreements or other similar agreements delivered to the Administrative Agent and/or the Collateral Agent pursuant to Section 6.12 and, during any Collateral Reinstatement Period, any New Collateral Documents delivered to the Administrative Agent and/or the Collateral Agent pursuant to Section 6.18(b) with respect to such Collateral Reinstatement Period, and each of the other agreements, instruments or documents that creates or purports to create a Lien in favor of the Collateral Agent for the benefit of the Secured Parties.

“Collateral Reinstatement Date” has the meaning specified in Section 6.18(b).

“Collateral Reinstatement Event” has the meaning specified in Section 6.18(b).

“Collateral Reinstatement Period” means each period commencing on the Collateral Reinstatement Date with respect to such period and ending on any Collateral Suspension Date occurring after such Collateral Reinstatement Date.

“Collateral Suspension Date” means the date on which: (i) no Default or Event of Default exists, (ii) each of the Borrower’s corporate family rating from Moody’s and corporate credit rating from S&P is an Investment Grade Rating as of such date, (iii) any or all of the Liens granted or purported to be granted on the Collateral securing the Secured Hedge Agreements and the Secured Cash Management Agreements are concurrently released to the same extent that such Liens on such Collateral securing the other Obligations are released and (iv) a Responsible Officer of the Borrower delivers an officer’s certificate to the Administrative Agent and the Collateral Agent that (1) certifies to the satisfaction or concurrent satisfaction of the foregoing and (2) directs the Collateral Agent to release the Collateral in accordance with the second sentence under Section 6.18(a).

“Collateral Suspension Period” means each period commencing on the Collateral Suspension Date with respect to such period and ending on the Collateral Reinstatement Date with respect to such Collateral Suspension Date.

“Commitment” means a Tranche A Term Loan Commitment, a Revolving Credit Commitment or any other commitment to extend credit established pursuant to an Additional Credit Extension Amendment, as the context may require.

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

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

“Consolidated EBITDA” means, at any date of determination, an amount equal to Consolidated Net Income of the Borrower and its Subsidiaries on a consolidated basis for the most recently completed Measurement Period plus (a) the following to the extent deducted (and not added back) in calculating such Consolidated Net Income (without duplication): (i) Consolidated Interest Charges, (ii) the provision for Federal, state, local and foreign income taxes and for foreign withholding taxes payable, (iii) depreciation and amortization expense, including any amortization of intangibles, (iv) non-cash charges (including founders’ grants made in connection with the initial public offering of the Borrower’s common stock and non-cash charges related to employee benefit or other management or stock compensation plans or expense, but excluding write-offs, write-downs or reserves with respect to accounts receivable or inventory (which write-offs, write-downs or reserves shall not be added back under any clause of this definition of Consolidated EBITDA (other than clause (b)(ii) below))) (provided that if any such non-cash charges represent an accrual or reserve for potential cash items in any future period, the cash payment in respect thereof in such future period shall be subtracted from Consolidated EBITDA in such future period to such extent, and excluding amortization of a prepaid cash item that was in a prior period), (v) integration costs related to the RiskMetrics Transaction (including severance and relocation costs, one-time compensation charges, restructuring charges, integration costs and reserves), (vi) unusual or non-recurring losses or expenses (including severance and relocation costs, one-time compensation charges, restructuring charges, integration costs and reserves), including such items related to Permitted Acquisitions and to closure/consolidation of facilities, in an amount not to exceed, in the aggregate under this clause (vi) for any Measurement Period, 5.0% of Consolidated EBITDA for such Measurement Period, (vii) transaction costs, fees and expenses (including swap breakage costs) in connection with the ARCA Transaction, or, to the extent permitted hereunder, any sale of Equity Interests, any Permitted Acquisition or other Investment permitted under Section 7.03, any Disposition permitted under Section 7.05, the incurrence of, or any refinancing of, any Indebtedness permitted under Section 7.02 (in each case whether or not successful), (viii) any net after-tax loss from the early extinguishment of Indebtedness or hedging obligations or other derivative instruments, (ix) costs of surety bonds incurred in connection with financing activities, (x) mark-to-market losses recognized pursuant to FASB ASC Topic 815 or any successor thereof, (xi) to the extent reimbursement therefor is actually received by the Borrower or a

Subsidiary, expenses incurred to the extent covered by indemnification provisions in any agreement in connection with a Permitted Acquisition and (xii) cash expenses incurred during such period in connection with casualty events to the extent such expenses are reimbursed in cash by insurance during such period and minus (b) the following to the extent included in calculating such Consolidated Net Income (without duplication): (i) Federal, state, local and foreign income tax credits, (ii) all non-cash items increasing Consolidated Net Income (excluding any such non-cash item to the extent it represents the reversal of an accrual or reserve for potential cash item in any prior period or reversal of a reserve with respect to accounts receivable or inventory which reduced Consolidated EBITDA hereunder in a prior period), (iii) unusual or non-recurring gains or income, (iv) any net after-tax income from the early extinguishment of Indebtedness or hedging obligations or other derivative instruments, and (v) mark-to-market gains recognized pursuant to FASB ASC Topic 815 or any successor thereof (in each case of or by the Borrower and its Subsidiaries for such Measurement Period); provided that (x) there shall be excluded in determining Consolidated EBITDA non-operating currency transaction gains and losses (including the net loss or gain resulting from Swap Contracts for currency exchange risk) and (y) for purposes of determining the Consolidated Leverage Ratio and Consolidated Interest Coverage Ratio, Consolidated EBITDA shall be determined on a Pro Forma Basis. The calculation of Consolidated EBITDA shall exclude any non-cash impact attributable to the reduction in deferred revenue or reduction in deferred costs to balance sheet accounts as a result of the fair value exercise undertaken as required by purchase method of accounting for any acquisition permitted hereunder, in accordance with GAAP (such exclusion to be reflected in the period in which such revenues or costs would have been recorded had such reduction not been required).

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

“Consolidated Interest Charges” means, for any Measurement Period, the sum, without duplication, of (a) all interest, premium payments and debt discount in connection with borrowed money (including capitalized interest) or in connection with the deferred purchase price of assets, in each case to the extent treated as interest in accordance with GAAP but, in any event, excluding upfront fees and expenses and the amortization of deferred financing costs (including, for the avoidance of doubt, any upfront fees, expenses or amortized deferred financing costs accelerated upon giving effect to amendments to the Original Credit Agreement, this Agreement, amendments to this Agreement and the transactions contemplated thereby or hereby), and (b) the portion of rent expense under Capitalized Leases that is treated as interest in accordance with GAAP, in each case, of or by the Borrower and its Subsidiaries on a consolidated basis for such period. For purposes of the foregoing, interest expense shall be determined after giving effect to any net payments made or received by the Borrower or any Subsidiary with respect to interest rate Swap Contracts.

“Consolidated Interest Coverage Ratio” means, as of any date of determination, the ratio of (a) Consolidated EBITDA to (b) Consolidated Interest Charges paid in cash, in each case, of or by the Borrower and its Subsidiaries on a consolidated basis for the most recently completed Measurement Period.

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

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

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

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

“Credit Extension” means (a) a Borrowing or (b) an L/C Credit Extension.

“Cumulative Retained Excess Cash Flow” means (A) the sum of (x) \$338,077,000 and (y) the sum of Excess Cash Flow (but not less than zero for any period) for each ECF Period (it being understood that no Excess Cash Flow generated during any period shall increase Cumulative Retained Excess Cash Flow until the financial statements for such period are delivered pursuant to Section 6.01(a) and the related Compliance Certificate is delivered pursuant to Section 6.02(a)) minus (B) the sum of (i) the amount of Excess Cash Flow required to be applied to prepay Loans pursuant to Section 2.05(b)(i), (ii) the amount of Investments made (or simultaneously being made) pursuant to Section 7.03(l), (iii) the amount of Restricted Payments made (or simultaneously being made) pursuant to the proviso to Section 7.06(h), (iv) the amount of Capital Expenditures made (or simultaneously being made) pursuant to the second sentence of Section 7.12 and (v) prepayments, redemptions, purchases, defeasances or other satisfaction of Indebtedness made (or simultaneously being made) pursuant to Section 7.15(f)(A).

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

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

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

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

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

“Defaulting Lender” means, subject to Section 2.16(b), any Lender that, as determined by the Administrative Agent (following consultation with the Borrower), (a) has failed to perform any of its funding obligations hereunder, including in respect of its Loans or participations in respect of Letters of Credit or Swing Line Loans, within three Business Days of the date required to be funded by it hereunder, (b) has notified the Borrower or the Administrative Agent that it does not intend to comply with its funding obligations or has made a public statement to that effect with respect to its funding obligations hereunder or, with respect to Revolving Credit Lenders, under other agreements in which it commits to extend credit, (c) has failed, within three Business Days after request by the Administrative Agent, to confirm in a manner satisfactory to the Administrative Agent that it will comply with its funding obligations, or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had a receiver, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or a custodian appointed for it, or (iii) taken any action in furtherance of, or indicated its consent to, approval of or acquiescence in any such proceeding or appointment; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority.

“Discounted Prepayment Offer” means an offer by the Borrower to prepay Term Loans pursuant to the Auction Procedures and otherwise in accordance with Section 2.17.

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

“Disqualified Equity Interests” means any Equity Interest which, by its terms (or by the terms of any security or other Equity Interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition (a) matures or is mandatorily redeemable (other than solely for Qualified Equity Interests), pursuant to a sinking fund obligation or otherwise, (b) is redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests), in whole or in part, (c) provides for the scheduled payments of dividends in cash, or (d) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case of clauses (a) through (d) above, prior to the date that is ninety-one (91) days after the Latest Maturity Date; provided that an Equity Interest shall not be deemed to be a Disqualified Equity Interest solely because it is redeemable or is required to be redeemed as a result of a change of control or asset

sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments and all outstanding Letters of Credit.

“Documentation Agents” means Bank of America, N.A., The Royal Bank of Scotland plc, TD Bank, N.A., Compass Bank and HSBC Bank USA, National Association.

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

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

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

“ECF Period” means each fiscal year of the Borrower commencing with the fiscal year ending December 31, 2012.

“Economic Sanctions Laws” means any and all laws, judgments, orders, executive orders, decrees, ordinances, rules, regulations, statutes, case law or treaties applicable to a Loan Party, its Subsidiaries or Affiliates relating to economic sanctions and terrorism financing, including any applicable provisions of the Trading with the Enemy Act (50 U.S.C. App. §§ 5(b) and 16, as amended), the International Emergency Economic Powers Act, (50 U.S.C. §§ 1701-1706, as amended) and Executive Order 13224 (effective September 24, 2001), as amended.

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

“Embargoed Person” shall mean any party that (i) is publicly identified on the most current list of “Specially Designated Nationals and Blocked Persons” published by the U.S. Treasury Department’s Office of Foreign Assets Control (“OFAC”) or (ii) resides, is organized or chartered, or has a place of business in a country or territory that is the subject of OFAC sanctions programs.

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

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Borrower, any other Loan Party or any of their respective Subsidiaries directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use,

handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

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

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

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

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

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

“ERISA Event” means (a) a Reportable Event with respect to a Pension Plan; (b) the withdrawal of the Borrower or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which such entity was a “substantial employer” as defined in Section 4001(a)(2) of ERISA or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) any failure to meet the minimum funding standard under Section 412 of the Code or Section 302 of ERISA, with respect to any Pension Plan, whether or not waived, or the failure to make any required contribution to a Multiemployer Plan; (d) a complete or partial withdrawal by the Borrower or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization; (e) the filing of a notice of intent to terminate a Pension Plan or Multiemployer Plan or the treatment of a Pension Plan or Multiemployer Plan amendment as a termination under Section 4041 or 4041A of ERISA, respectively; (f) the institution by the PBGC of proceedings to terminate a Pension Plan or Multiemployer Plan; (g) any event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any

Pension Plan or Multiemployer Plan; (h) the determination that any Pension Plan is considered an at-risk plan or a Multiemployer Plan is in endangered or critical status within the meaning of Sections 430, 431 and 432 of the Code or Sections 303 and 305 of ERISA; or (i) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Borrower or any ERISA Affiliate.

“Eurodollar Rate” means: (a) for any Interest Period with respect to a Eurodollar Rate Loan, (i) the rate per annum equal to the British Bankers Association LIBOR Rate (“BBA LIBOR”), as published by Reuters (or such other commercially available source providing quotations of BBA LIBOR as may be designated by the Administrative Agent from time to time) at approximately 11:00 a.m. (London time) two London Banking Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period or (ii) if such rate is not available at such time for any reason, the rate per annum determined by the Administrative Agent to be the rate at which Dollar deposits for delivery on the first day of such Interest Period in same day funds in the approximate amount of the Eurodollar Rate Loan being made, continued or converted by the Administrative Agent and with a term equivalent to such Interest Period would be offered to major banks in the London or other offshore interbank eurodollar market for such currency at their request at approximately 11:00 a.m. (London time) two London Banking Days prior to the commencement of such Interest Period or (b) for any interest calculation with respect to a Base Rate Loan on any date, (i) the rate per annum equal to BBA LIBOR, at approximately 11:00 a.m. (London time), determined two London Banking Days prior to such date for Dollar deposits being delivered in the London interbank market for a term of one month commencing that day or (ii) if such published rate is not available at such time for any reason, the rate per annum determined by the Administrative Agent to be the rate at which deposits in Dollars for delivery on the date of determination in same day funds in the approximate amount of the Base Rate Loan being made or maintained and with a term equal to one month would be offered to major banks in the London interbank eurodollar market at their request at the date and time of determination.

“Eurodollar Rate Loan” means a Loan that bears interest at a rate based on the Eurodollar Rate.

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

“Excess Cash Flow” means, for any ECF Period, the excess (if any) of (a) the sum, without duplication, of (i) Consolidated EBITDA for such ECF Period, (ii) if there was a net increase in consolidated Current Liabilities of the Borrower and its Subsidiaries for such ECF Period, the amount of such net increase, (iii) if there was a net decrease in consolidated Current Assets of the Borrower and its Subsidiaries for such ECF Period, the amount of such net decrease, (iv) to the extent excluded from the calculation of Consolidated Net Income for such ECF Period, after-tax extraordinary cash gains and (v) to the extent excluded from the calculation of Consolidated EBITDA for such ECF Period, unusual or non-recurring cash gains or income over (b) the sum (for such ECF Period), without duplication, of (i) Consolidated Interest Charges actually paid in cash by the Borrower and its Subsidiaries, (ii) scheduled principal repayments, to the extent actually made of Term Loans pursuant to Section 2.07(a) or of term loans pursuant to Section 2.07(a) of the Original Credit Agreement, (iii) all income taxes

and foreign withholding taxes actually paid in cash by the Borrower and its Subsidiaries, (iv) Capital Expenditures actually made by the Borrower and its Subsidiaries in such ECF Period to a party other than the Borrower or any of its Subsidiaries solely to the extent permitted by this Agreement, except to the extent such Capital Expenditures were financed with proceeds of Indebtedness (other than Revolving Credit Loans) or Equity Interests of the Borrower or any of its Subsidiaries or other proceeds from a financing transaction that would not be included in Consolidated EBITDA, (v) if there was a net increase in consolidated Current Assets of the Borrower and its Subsidiaries for such ECF Period, the amount of such net increase, (vi) if there was a net decrease in consolidated Current Liabilities of the Borrower and its Subsidiaries for such ECF Period, the amount of such net decrease, (vii) cash used to consummate a Permitted Acquisition during such ECF Period to the extent not financed with proceeds of Indebtedness (other than Revolving Credit Loans) or Equity Interests of the Borrower or any of its Subsidiaries, or other proceeds from a financing transaction that would not be included in Consolidated EBITDA, (viii) the aggregate amount of principal payments of Consolidated Funded Indebtedness (other than the Loans) made during such ECF Period, excluding any amount funded with proceeds from the issuance of Indebtedness (other than Revolving Credit Loans) or Equity Interests of the Borrower or any of its Subsidiaries or other proceeds from a financing transaction that would not be included in Consolidated EBITDA, provided that (A) such payments are not prohibited under this Agreement and (B) if such Indebtedness consists of a revolving line of credit, the commitments under such revolving line of credit are permanently reduced by the amount of such payment, (ix) the aggregate amount of any premium, make-whole or penalty payments actually paid in cash by the Borrower or any of its Subsidiaries during such period that are required to be made in connection with any prepayment of Indebtedness and that are accounted for as extraordinary items, except to the extent such premium, make-whole or penalty payments are financed with the proceeds of Indebtedness (other than Revolving Credit Loans) or Equity Interests of the Borrower or any of its Subsidiaries or other proceeds from a financing transaction that would not be included in Consolidated EBITDA, (x) cash payments made during such ECF Period in respect of non-cash charges that increased Excess Cash Flow in any prior applicable period, (xi) to the extent excluded from the calculation of Consolidated Net Income, after-tax extraordinary cash losses or expenses, (xii) cash integration costs related to the RiskMetrics Transaction (including severance and relocation costs, one-time compensation charges, restructuring charges, integration costs and reserves), (xiii) transaction costs, fees and expenses (including swap breakage costs) in connection with the ARCA Transaction, or, to the extent permitted hereunder, any sale of Equity Interests, any Permitted Acquisition or other Investment permitted under Section 7.03, any Disposition permitted under Section 7.05, the incurrence of, or any refinancing of, any Indebtedness permitted under Section 7.02 (in each case whether or not successful) and not paid with the proceeds of any financing transaction, including proceeds of the Loans (other than Revolving Credit Loans), (xiv) to the extent included in calculating Consolidated EBITDA, cash expenses of surety bonds incurred in connection with financing activities, (xv) to the extent included in calculating Consolidated EBITDA, unusual or non-recurring losses or expenses, charges and integration costs that are cash expenditures and (xvi) the amount expended for the prepayment of Term Loans pursuant to Discounted Prepayment Offers under Section 2.17.

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

“Existing Class” means a Class of Existing Term Loans or a Class of Existing Revolving Credit Commitments.

“Existing Letters of Credit” means those letters of credit issued and outstanding as of the Amendment and Restatement Effective Date under the Original Credit Agreement.

“Existing Revolving Credit Commitments” has the meaning specified in Section 2.18(b).

“Existing Term Loans” has the meaning specified in Section 2.18(a).

“Extended Class” means a Class of Extended Term Loans or a Class of Extended Revolving Credit Commitments.

“Extended Revolving Credit Commitments” has the meaning specified in Section 2.18(b).

“Extended Term Loans” has the meaning specified in Section 2.18(a).

“Extending Lender” has the meaning specified in Section 2.18(c).

“Extension Effective Date” has the meaning specified in Section 2.18(c).

“Extension Election” has the meaning specified in Section 2.18(c).

“Extension Request” means a Revolving Credit Extension Request or a Term Loan Extension Request.

“Facility” means the Tranche A Term Facility, the Revolving Credit Facility or any credit facility created pursuant to an Additional Credit Extension Amendment, as the context may require.

“FASB ASC” means the Accounting Standards Codification of the Financial Accounting Standards Board.

“FATCA” means Section 1471 through 1474 of the Code as of the date hereof (and any amended or successor version thereof that is substantively comparable and not materially more onerous to comply with), and any current or future Treasury regulations or official interpretations thereof.

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

“Fee Letter” means the Administrative Agent Fee Letter dated as of May 4, 2012, between the Borrower and MSSF.

“Foreign Lender” means any Lender or L/C Issuer that is not a United States person within the meaning of Section 7701(a)(30) of the Code.

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

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

“Fronting Exposure” means, at any time there is a Defaulting Lender, (a) with respect to the L/C Issuer, such Defaulting Lender’s Applicable Percentage of the outstanding L/C Obligations other than L/C Obligations as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof, and (b) with respect to the Swing Line Lender, such Defaulting Lender’s Applicable Percentage of Swing Line Loans other than Swing Line Loans as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof.

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

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

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

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

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

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

“Guaranty” means, collectively, the Amended and Restated Guaranty dated as the date hereof made by the Guarantors in favor of the Secured Parties, substantially in the form of Exhibit E, together with each other guaranty and guaranty supplement delivered pursuant to Section 6.12, in each case as amended, supplemented or otherwise modified from time to time.

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

“Hedge Bank” means any Person that, at the time it enters into a Secured Hedge Agreement, is a Lender or an Affiliate of a Lender, in its capacity as a party to such Secured Hedge Agreement.

“Immaterial Subsidiary” means, at any date of determination, a Subsidiary of the Borrower that, together with all other Immaterial Subsidiaries, (i) did not have total assets on the last day of the most recent Measurement Period that equaled or exceeded 5% of the consolidated total assets of the Borrower and its Subsidiaries at such date, (ii) did not contribute 5% or more of the Consolidated EBITDA of the Borrower and its Subsidiaries for such period and (iii) does not own any Material Intellectual Property or any Material Real Property.

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

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

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

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

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

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

(f) all Attributable Indebtedness of such Person;

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

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

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

"Indemnified Taxes" means Taxes other than Excluded Taxes.

"Indemnitee" has the meaning specified in Section 10.04(b).

"Information" has the meaning specified in Section 10.07.

"Institutional Term Loans" means term loans of the type marketed primarily to institutional term loan lenders (as opposed to commercial banks) in the primary syndication thereof.

"Intellectual Property Security Agreement" means, collectively, each intellectual property security agreement, in substantially the form of Exhibit A to the Security Agreement, delivered on the Original Closing Date together with each other intellectual property security agreement and intellectual property security agreement supplement delivered pursuant to Section 6.12, in each case as amended, supplemented or otherwise modified from time to time.

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

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

(a) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(b) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(c) no Interest Period shall extend beyond the Maturity Date of the Facility under which such Loan was made.

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

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

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

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

“IRS” means the United States Internal Revenue Service.

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

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

“Latest Maturity Date” means, at any time of determination, the latest Maturity Date for any Class of Loans or Commitments outstanding at such time.

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

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

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

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

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

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

“Lead Arrangers” means Morgan Stanley MUFG Loan Partners, LLC, J.P. Morgan Securities LLC and Fifth Third Bank, an Ohio banking corporation, in their capacities as joint lead arrangers and joint bookrunners for the ARCA Transaction.

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

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

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

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

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

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

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

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

“Loan” means a loan of any Class by a Lender to the Borrower under Article II.

“Loan Documents” means, collectively, (a) this Agreement and amendments of and joinders to this Agreement that are deemed pursuant to their terms to be Loan Documents for purposes hereof, (b) the Notes, (c) the Guaranty, (d) the Collateral Documents (other than during a Collateral Suspension Period), (e) the Fee Letter, (f) any agreement creating or perfecting rights in Cash Collateral pursuant to the provisions of Section 2.15 of this Agreement, (g) each Issuer Document and (h) each Additional Credit Extension Amendment; provided, that, unless otherwise specified in the applicable Collateral Document or the Guaranty and other than during a Collateral Suspension Period, for the purposes of the Collateral Documents and the Guaranty, “Loan Documents” shall also include Secured Hedge Agreements and Secured Cash Management Agreements.

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

“London Banking Day” means any day on which dealings in Dollar deposits are conducted by and between banks in the London interbank eurodollar market.

“Material Adverse Effect” means (a) a material adverse effect on the operations, business, properties, liabilities (actual or contingent) or financial condition of the Borrower and its Subsidiaries, taken as a whole; (b) a material adverse effect on the ability of the Loan Parties (taken as a whole) to perform their payment obligations under any Loan Document; or (c) a material adverse effect on the rights and remedies of the Lenders and the Administrative Agent under any Loan Document.

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

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

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

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

“Maturity Date” means (a) with respect to the Tranche A Term Facility and the Revolving Credit Facility, the fifth year anniversary of the Amendment and Restatement Effective Date and (b) with respect to any other Class of Loans or Commitments, the maturity date specified in the Additional Credit Extension Amendment related thereto; provided, however, that, in each case, if such date is not a Business Day, the Maturity Date shall be the next preceding Business Day.

“Maximum Rate” has the meaning specified in Section 10.09.

“Measurement Period” means, at any date of determination, the most recently completed four fiscal quarters of the Borrower ending on or prior to such date; provided that solely for purposes of determining Excess Cash Flow, “Measurement Period” as used in the definition of Consolidated EBITDA shall be the applicable ECF Period.

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

“Morgan Stanley” means Morgan Stanley, a Delaware corporation.

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

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

“Multiemployer Plan” means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

“Multiple Employer Plan” means a Plan which has two or more contributing sponsors (including the Borrower or any ERISA Affiliate) at least two of whom are not under common control, as such a plan is described in Section 4064 of ERISA.

“Net Cash Proceeds” means:

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

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

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

“New Collateral Documents” has the meaning specified in Section 6.18(b).

“Non-Extension Notice Date” has the meaning specified in Section 2.03(b)(iii).

“Not Otherwise Applied” means, with respect to any amount of Equity Net Cash Proceeds, such amount that has not previously been (and is not simultaneously being) applied as described in (1) clause (b)(vi) of the second sentence of the definition of Capital Expenditures, (2) Section 7.03(h)(iii) or (g), or (3) Section 7.15(f)(B).

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

“OFAC” has the meaning set forth in the definition of “Embargoed Person.”

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

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

“Original Closing Date” means June 1, 2010.

“Original Credit Agreement” has the meaning set forth in the Preliminary Statements hereto.

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

“Outstanding Term Loans” has the meaning specified in Section 2.14(a).

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

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

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

“PBGC” means the Pension Benefit Guaranty Corporation.

“Pension Act” means the Pension Protection Act of 2006.

“Pension Funding Rules” means the rules of the Code and ERISA regarding minimum required contributions (including any installment payment thereof) to Pension Plans and set forth in, with respect to plan years ending prior to the effective date of the Pension Act, Section 412 of the Code and Section 302 of ERISA, each as in effect prior to the Pension Act and, thereafter, Section 412, 430 and 436 of the Code and Sections 302 and 303 of ERISA.

“Pension Plan” means any employee pension benefit plan within the meaning of Section 3(2) of ERISA (including Multiple Employer Plans but excluding Multiemployer Plans) that is maintained or is contributed to by the Borrower and any ERISA Affiliate and is either covered by Title IV of ERISA or is subject to the minimum funding standards under Section 412 of the Code.

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

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

“Permitted Refinancing” means, with respect to any Person, any refinancing, refunding, renewal or extension of any Indebtedness of such Person; provided that (a) the principal amount (or accreted value, if applicable) thereof does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so refinanced, refunded, renewed or extended except by an amount equal to unpaid accrued interest and premium thereon plus other reasonable amounts paid, and fees and expenses reasonably incurred, in connection with such refinancing, refunding, renewal or extension and by an amount equal to any existing commitments unutilized thereunder, (b) other than with respect to a Permitted Refinancing in respect of Indebtedness permitted pursuant to Section 7.02(f), such refinancing, refunding, renewal or extension has a final maturity date equal to or later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being refinanced, refunded, renewed or extended, (c) if the Indebtedness being refinanced, refunded, renewed or extended is subordinated in right of payment to the Obligations, such refinancing, refunding, renewal or extension is subordinated in right of payment to the Obligations on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being refinanced, refunded, renewed or extended, taken as a whole, (d) no Subsidiary that is not an obligor under the Indebtedness being refinanced, refunded renewed or extended shall be an obligor under such refinancing, refunding, renewal or extension, and (e) at the time thereof, no Event of Default shall have occurred and be continuing.

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

“Plan” means any employee pension benefit plan within the meaning of Section 3(2) of ERISA that is maintained or contributed to by the Borrower or its subsidiaries, or, with respect to any Plan that is a Pension Plan, any ERISA Affiliate.

“Platform” has the meaning specified in Section 6.02.

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

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

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

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

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

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

For purposes of this definition, whenever pro forma effect is given to a transaction, the pro forma calculations shall be made in good faith by a Responsible Officer of the Borrower and, except as set forth in the next sentence, in a manner consistent with Article 11 of Regulation S-X of the Securities Act of 1933, as set forth in a certificate of a Responsible Officer of the Borrower (with supporting calculations) and reasonably acceptable to the Administrative Agent. In addition to any adjustments consistent with Regulation S-X, such certificate may set forth additional pro forma adjustments arising out of factually supportable and identifiable cost savings initiatives attributable to, or any other adjustments reasonably acceptable to the Administrative Agent attributable to such Investment, Permitted Acquisition or Disposition (net of any additional costs associated with such Investment, Permitted Acquisition or Disposition) and expected in good faith to be realized within 12 months following such Investment, Permitted Acquisition or Disposition, including, but not limited to, (w) reduction in personnel expenses, (x) reduction of costs related to administrative functions, (y) reductions of costs related to leased or owned properties and (z) reductions from the consolidation of operations and streamlining of corporate overhead (taking into account, for purposes of determining such calculation, any historical financial statements of the business or entities acquired or disposed of, assuming such Investment, Permitted Acquisition or Disposition, and all other Investments, Permitted Acquisitions or Dispositions that have been consummated during the beginning of such period, and any Indebtedness or other liabilities repaid or incurred in connection therewith had been consummated and incurred or repaid at the beginning of such period; provided, that the aggregate amount of adjustments made pursuant to this sentence shall at no time exceed 15% of Consolidated EBITDA after giving pro forma effect thereto. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Borrower may designate.

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

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

“Refinancing Term Lender” has the meaning specified in Section 2.19.

“Refinancing Term Loan Effective Date” has the meaning specified in Section 2.19.

“Refinancing Term Loans” has the meaning specified in Section 2.19.

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

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

“Replaced Revolving Credit Commitments” has the meaning specified in Section 2.20.

“Replacement Revolving Credit Commitments” has the meaning specified in Section 2.20.

“Replacement Revolving Credit Commitment Effective Date” has the meaning specified in Section 2.20.

“Replacement Revolving Credit Lender” has the meaning specified in Section 2.20.

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

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

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

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

“Required Tranche Term Lenders” means, as of any date of determination, with respect to any Class of Term Loans, Lenders holding more than 50% of the Term Loans of such Class on such date; provided that Term Loans held by any Defaulting Lender shall be excluded for purposes of making a determination of Required Tranche Term Lenders.

“Responsible Officer” means the chief executive officer, president, chief financial officer, principal accounting officer, treasurer, assistant treasurer or controller of a Loan Party and, solely for purposes of the delivery of incumbency certificates pursuant to Section 4.01(a)(iii), the secretary or any assistant secretary of a Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any capital stock or other Equity Interest of the Borrower or any of its Subsidiaries, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, defeasance, acquisition, cancellation or termination of any such capital stock or other Equity Interest, or on account of any return of capital to the Borrower’s stockholders, partners or members (or the equivalent of any thereof), or any option, warrant or other right to acquire any such dividend or other distribution or payment; provided that any payment on any indebtedness convertible into or exchangeable for any Equity Interests shall not constitute a Restricted Payment.

“Revolving Credit Borrowing” means a Borrowing of Revolving Credit Loans.

“Revolving Credit Commitment” means, as to each Revolving Credit Lender, its obligation to (a) make Revolving Credit Loans to the Borrower pursuant to Section 2.01(b) or pursuant to an Additional Credit Extension Amendment, (b) purchase participations in L/C Obligations, and (c) purchase participations in Swing Line Loans, in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Lender’s name on Schedule 2.01 under the caption “Revolving Credit Commitment” or opposite such caption in the Additional Credit Extension Amendment or Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement. As of the Amendment and Restatement Effective Date, the aggregate Revolving Credit Commitments of all Revolving Credit Lenders is \$100,000,000.

“Revolving Credit Extension Request” has the meaning specified in Section 2.18(b).

“Revolving Credit Facility” means, at any time, the aggregate amount of the Revolving Credit Lenders’ Revolving Credit Commitments at such time.

“Revolving Credit Lender” means, at any time, any Lender that has a Revolving Credit Commitment at such time.

“Revolving Credit Loan” means a revolving loan made pursuant to Section 2.01(b) or an Additional Credit Extension Amendment.

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

“RiskMetrics Transaction” means, collectively, the acquisition of RiskMetrics Group, Inc. by a Subsidiary of the Borrower, the repayments and incurrences of Indebtedness in connection therewith and the payment of the related fees and expenses incurred in connection with the foregoing.

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

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

“Secured Cash Management Agreement” means any Cash Management Agreement that is entered into by and between the Borrower or any Loan Party and any Cash Management Bank.

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

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

“Security Agreement” means, collectively, the Amended and Restated Security Agreement dated as of the date hereof from the Borrower and the other Grantors referred to therein to the Collateral Agent, substantially in the form of Exhibit G, together with each other security agreement and security agreement supplement delivered pursuant to Section 6.12, in each case as amended, supplemented or otherwise modified from time to time; provided that at all times during a Collateral Reinstatement Period, “Security Agreement” shall be deemed to refer to any new security agreement required to be delivered on the Collateral Reinstatement Date with respect to such Collateral Reinstatement Period pursuant to Section 6.18(b).

“Security Agreement Supplement” has the meaning specified in Section 22 of the Security Agreement.

“Solvent” and “Solvency” mean, with respect to any Person on any date of determination, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (b) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay

the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay such debts and liabilities as they mature, and (d) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person's property would constitute an unreasonably small capital. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"SPC" has the meaning specified in Section 10.06(g).

"Specified Restructuring" has the meaning specified in Section 7.03(s).

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

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

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

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

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

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

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

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

“Syndication Agent” means J.P. Morgan Securities LLC in its capacity as syndication agent under this Agreement.

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

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

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

“Term Lender” means, at any time, any Lender that holds Term Loans at such time.

“Term Loan” means a Tranche A Term Loan or any term loan of any other Class established pursuant to an Additional Credit Extension Amendment.

“Term Loan Extension Request” has the meaning specified in Section 2.18(a).

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

“Threshold Amount” means \$40,000,000.

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

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

“Tranche A Term Facility” means the credit facility consisting of Tranche A Term Loans.

“Tranche A Term Lender” means, at any time, any Lender that holds a Tranche A Term Loan Commitment or Tranche A Term Loans at such time.

“Tranche A Term Loan” means a term loan made pursuant to Section 2.01(a).

“Tranche A Term Loan Commitment” means, with respect to each Tranche A Term Lender, the commitment of such Lender to make a Tranche A Term Loan in the amount set forth opposite its name on Schedule 2.01 on the Amendment and Restatement Effective Date. As of the Amendment and Restatement Effective Date, the aggregate principal amount of the Tranche A Term Loan Commitments is \$880,000,000.

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

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

“UCC Filing Collateral” means Collateral located in any state of the United States or the District of Columbia consisting solely of assets of Borrower and its Subsidiaries for which a security interest can be perfected by filing a UCC financing statement.

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

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

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

“Unrestricted Cash” means the aggregate amount of cash and Cash Equivalents held in accounts of the Borrower and its Subsidiaries (and included in the consolidated balance sheet of the Borrower) to the extent that (i) the use of such cash or Cash Equivalents for

application to payment of the Obligations or other Indebtedness is not prohibited by law or any contract or other agreement and (ii) such cash and Cash Equivalents are free and clear of all Liens (other than nonconsensual Liens permitted by Section 7.01, and Liens permitted by Sections 7.01(a) and (m)).

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

“Weighted Average Life to Maturity” means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (b) the then outstanding principal amount of such Indebtedness; *provided*, that for purposes of determining the Weighted Average Life to Maturity of any Indebtedness that is being modified, refinanced, refunded, renewed, replaced or extended (the “Applicable Indebtedness”), the effects of any amortization of or prepayments made on such Applicable Indebtedness prior to the date of the applicable modification, refinancing, refunding, renewal, replacement or extension shall be disregarded.

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

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

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

or regulation as amended, modified or supplemented from time to time, and (vi) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

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

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

(d) If a new Class of Revolving Credit Commitments is established after the Amendment and Restatement Effective Date pursuant to an Additional Credit Extension Amendment, references to “Revolving Credit Commitments” herein shall mean all Classes of Revolving Credit Commitments, unless the Additional Credit Extension Amendment provides otherwise with respect to any one or more particular references to “Revolving Credit Commitments”; and references to “Revolving Credit Facility,” “Revolving Credit Lender” and “Revolving Credit Loan” shall also be subject to such rule of interpretation.

1.03 Accounting Terms.

(a) Generally. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Audited Financial Statements of the Borrower and its Subsidiaries, except as otherwise specifically prescribed herein. Notwithstanding any other provision contained herein, (i) all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to any election under FASB ASC Topic 825 (or any other Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Borrower or any of its Subsidiaries at “fair value,” as defined therein and (ii) the accounting for operating leases and capital leases under GAAP as in effect on the date hereof (including, without limitation, Accounting Standards Codification 840) shall apply for the purposes of determining compliance with the provisions of this Agreement, including the definition of Capitalized Leases and obligations in respect thereof.

(b) Changes in GAAP. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Borrower or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided that, until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Borrower shall

provide to the Administrative Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

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

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

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

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

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

ARTICLE II
THE COMMITMENTS AND CREDIT EXTENSIONS

2.01 The Loans.

(a) Tranche A Term Loans. Subject to the terms and conditions set forth herein, each Tranche A Term Lender severally agrees to make a Tranche A Term Loan to the Borrower on the Amendment and Restatement Effective Date in the principal amount equal to its Tranche A Term Loan Commitment. Amounts borrowed under this Section 2.01(a) and repaid or prepaid may not be reborrowed. Tranche A Term Loans may be Base Rate Loans or Eurodollar Rate Loans as further provided herein.

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

2.02 Borrowings, Conversions and Continuations of Loans.

(a) Each Borrowing, each conversion of Loans from one Type to the other, and each continuation of Eurodollar Rate Loans shall be made upon the Borrower's irrevocable notice to the Administrative Agent, which may be given by telephone. Each such notice must be received by the Administrative Agent not later than 11:00 a.m. (i) three Business Days prior to the requested date of any Borrowing of, conversion to or continuation of Eurodollar Rate Loans or of any conversion of Eurodollar Rate Loans to Base Rate Loans, and (ii) on the requested date of any Borrowing of Base Rate Loans; provided, however, that if the Borrower wishes to request Eurodollar Rate Loans having an Interest Period other than one, two, three or six months in duration as provided in the definition of "Interest Period," (A) the applicable notice must be received by the Administrative Agent not later than 11:00 a.m. four Business Days prior to the requested date of such Borrowing, conversion or continuation, whereupon the Administrative Agent shall give prompt notice to the Appropriate Lenders of such request and determine whether the requested Interest Period is acceptable to all of them and (B) not later than 11:00 a.m., three Business Days before the requested date of such Borrowing, conversion or continuation, the Administrative Agent shall notify the Borrower (which notice may be by telephone) whether or not the requested Interest Period has been consented to by all such Lenders. Each telephonic notice by the Borrower pursuant to this Section 2.02(a) must be confirmed promptly by delivery to the Administrative Agent of a written Committed Loan Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Each Borrowing of, conversion to or continuation of Eurodollar Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$100,000 in excess thereof. Except as provided in Sections 2.03(c) and 2.04(c), each Borrowing of or conversion to Base Rate Loans shall be in a principal amount of \$100,000 or a whole multiple of \$100,000 in excess thereof. Each

Committed Loan Notice (whether telephonic or written) shall specify (i) whether the Borrower is requesting a Borrowing (and, if so, the Class of Loans to be borrowed), a conversion of Loans from one Type to the other, or a continuation of Eurodollar Rate Loans, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Loans to be borrowed, converted or continued, (iv) the Type of Loans to be borrowed or to which existing Loans are to be converted, and (v) if applicable, the duration of the Interest Period with respect thereto. If the Borrower fails to specify a Type of Loan in a Committed Loan Notice or if the Borrower fails to give a timely notice requesting a conversion or continuation (or, in the case of outstanding Eurodollar Rate Term Loans, fails to give a notice requesting a conversion or continuation before 11:00 a.m. three Business Days prior to the last date of any Interest Period then in effect), then (a) except in the case of outstanding Eurodollar Rate Term Loans, the applicable Loans shall be made as, or converted to, Base Rate Loans, and (b) in the case of outstanding Eurodollar Rate Term Loans, such Eurodollar Rate Term Loans shall be continued as Eurodollar Rate Term Loans with an Interest Period of one month. Any such automatic conversion to Base Rate Loans, or continuation of Eurodollar Rate Term Loans for an additional Interest Period of one month, shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurodollar Rate Loans. If the Borrower requests a Borrowing of, conversion to, or continuation of Eurodollar Rate Loans in any such Committed Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month. Notwithstanding anything to the contrary herein, a Swing Line Loan may not be converted to a Eurodollar Rate Loan.

(b) Following receipt of a Committed Loan Notice, the Administrative Agent shall promptly notify each Appropriate Lender of the amount of its Applicable Percentage under the applicable Facility of the applicable Class of Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans or, if applicable, continuation of Eurodollar Rate Term Loans for an additional Interest Period of one month, described in Section 2.02(a). Each Appropriate Lender shall make the amount of its Loan available to the Administrative Agent in immediately available funds at the Administrative Agent's Office not later than 1:00 p.m. on the Business Day specified in the applicable Committed Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.02 (and, if such Borrowing is the Credit Extension on the Amendment and Restatement Effective Date, Section 4.01), the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent either by (i) crediting the account of the Borrower on the books of the Administrative Agent with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to the Administrative Agent by the Borrower; provided, however, that if, on the date a Committed Loan Notice with respect to a Revolving Credit Borrowing is given by the Borrower, there are L/C Borrowings outstanding, then the proceeds of such Revolving Credit Borrowing, first, shall be applied to the payment in full of any such L/C Borrowings, and second, shall be made available to the Borrower as provided above.

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

(d) The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for Eurodollar Rate Loans upon determination of such interest rate.

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

(f) Anything in this Section 2.02 to the contrary notwithstanding, the Borrower may not select Interest Periods for Eurodollar Rate Loans under the Tranche A Term Facility that have a duration of more than one month until the earlier to occur of (i) the 30th day following the Amendment and Restatement Effective Date and (ii) the date upon which the Administrative Agent has determined that primary syndication has been completed (and the Administrative Agent undertakes to notify the Borrower promptly upon making such determination).

2.03 Letters of Credit.

(a) The Letter of Credit Commitment. (i) Subject to the terms and conditions set forth herein, (A) the L/C Issuer agrees in reliance upon the agreements of the Revolving Credit Lenders set forth in this Section 2.03, (1) from time to time on any Business Day during the period from the Original Closing Date until the Letter of Credit Expiration Date, to issue Letters of Credit for the account of the Borrower or its Subsidiaries, and to amend or extend Letters of Credit previously issued by it, in accordance with Section 2.03(b), and (2) to honor drawings under the Letters of Credit; and (B) the Revolving Credit Lenders severally agree to participate in Letters of Credit issued for the account of the Borrower or its Subsidiaries and any drawings thereunder; provided that after giving effect to any L/C Credit Extension with respect to any Letter of Credit, (x) the Total Revolving Credit Outstandings shall not exceed the Revolving Credit Facility, (y) the aggregate Outstanding Amount of the Revolving Credit Loans of any Revolving Credit Lender, plus such Lender's Applicable Revolving Credit Percentage of the Outstanding Amount of all L/C Obligations, plus such Lender's Applicable Revolving Credit Percentage of the Outstanding Amount of all Swing Line Loans shall not exceed such Lender's Revolving Credit Commitment, and (z) the Outstanding Amount of the L/C Obligations shall not exceed the Letter of Credit Sublimit. Each request by the Borrower for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by the Borrower that the L/C Credit Extension so requested complies with the conditions set forth in the proviso to the preceding sentence. Within the foregoing limits, and subject to the terms and conditions hereof, the Borrower's ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrower may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed. All Existing Letters of Credit shall be deemed to have been issued hereunder and, from and after the Amendment and Restatement Effective Date, shall be subject to and governed by the terms and conditions hereof without any further action by the Borrower.

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

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

(B) the expiry date of such requested Letter of Credit would occur after the Letter of Credit Expiration Date, unless the Administrative Agent and L/C Issuer approve and the Borrower shall have provided Cash Collateral for the L/C Obligations relating to such Letter of Credit in the manner set forth in Section 2.15 in an amount equal to 102% of such L/C Obligations or other arrangements satisfactory to the Administrative Agent and the L/C Issuer shall have been made in lieu thereof.

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

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

(B) the issuance of such Letter of Credit would violate one or more policies of the L/C Issuer applicable to letters of credit generally;

(C) except as otherwise agreed by the Administrative Agent and the L/C Issuer, such Letter of Credit is in an initial stated amount less than \$250,000;

(D) such Letter of Credit is to be denominated in a currency other than Dollars;

(E) any Lender is at that time a Defaulting Lender, unless the L/C Issuer has entered into arrangements, including the delivery of Cash Collateral, satisfactory to the L/C Issuer (in its sole discretion) with such Lender or the Borrower to eliminate the L/C Issuer's actual or potential Fronting Exposure (after giving effect to Section 2.16(a)(iv)) with respect to the Defaulting Lender arising from either the Letter of Credit then proposed to be issued or that Letter of Credit and all other L/C Obligations as to which the L/C Issuer has actual or potential Fronting Exposure, as it may elect in its sole discretion.

(iv) The L/C Issuer shall not amend any Letter of Credit if the L/C Issuer would not be permitted at such time to issue such Letter of Credit in its amended form under the terms hereof.

(v) The L/C Issuer shall be under no obligation to amend any Letter of Credit if (A) the L/C Issuer would have no obligation at such time to issue such Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment to such Letter of Credit.

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

(b) Procedures for Issuance and Amendment of Letters of Credit; Auto-Extension Letters of Credit. (i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrower delivered to the L/C Issuer (with a copy to the Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of the Borrower. Such Letter of Credit Application must be received by the L/C Issuer and the Administrative Agent not later than 11:00 a.m. at least five Business Days (or such later date and time as the Administrative Agent and the L/C Issuer may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail reasonably satisfactory to the L/C Issuer: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; (G) the purpose and nature of the requested Letter of Credit; and (H) such other matters as the L/C Issuer may reasonably require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail reasonably satisfactory to the L/C Issuer (1) the Letter of Credit to be amended; (2) the proposed date of amendment thereof (which shall be a Business Day); (3) the nature of the proposed amendment; and (4) such other matters as the L/C Issuer may reasonably require. Additionally, the Borrower shall furnish to the L/C Issuer and the Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any Issuer Documents, as the L/C Issuer or the Administrative Agent may reasonably require.

(ii) Promptly after receipt of any Letter of Credit Application, the L/C Issuer will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such Letter of Credit Application from the Borrower and, if not, the L/C Issuer will provide the Administrative Agent with a copy thereof. Unless the L/C Issuer has

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

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

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

(v) Each Letter of Credit issued hereunder on or after the Original Closing Date will be in the form in use at the time of issuance by the L/C Issuer.

(c) Drawings and Reimbursements; Funding of Participations. (i) Upon the payment by the L/C Issuer of any draw made against any Letter of Credit by the beneficiary thereof, the L/C Issuer shall notify the Borrower and the Administrative Agent thereof. Not later than 1:00 p.m. on the later of (i) the date of any payment by the L/C Issuer under a Letter of

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

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

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Revolving Credit Borrowing of Base Rate Loans because the conditions set forth in Section 4.02 cannot be satisfied or for any other reason, the Borrower shall be deemed to have incurred from the L/C Issuer an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate. In such event, each Revolving Credit Lender's payment to the Administrative Agent for the account of the L/C Issuer pursuant to Section 2.03(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.03.

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

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

(vi) If any Revolving Credit Lender fails to make available to the Administrative Agent for the account of the L/C Issuer any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.03(c) by the time specified in Section 2.03(c)(ii), then, without limiting the other provisions of this Agreement, the L/C Issuer shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the L/C Issuer at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by the L/C Issuer in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the L/C Issuer in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's committed Loan included in the relevant committed Borrowing or L/C Advance in respect of the relevant L/C Borrowing, as the case may be. A certificate of the L/C Issuer submitted to any Revolving Credit Lender (through the Administrative Agent) with respect to any amounts owing under this Section 2.03(c)(vi) shall be conclusive absent manifest error.

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

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

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

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

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

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

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

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

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

(f) **Role of L/C Issuer.** Each Lender and the Borrower agree that, in paying any drawing under a Letter of Credit, the L/C Issuer shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or

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

(g) Applicability of ISP. Unless otherwise expressly agreed by the L/C Issuer and the Borrower when a Letter of Credit is issued (including any such agreement applicable to an Existing Letter of Credit) the rules of the ISP shall apply to each Letter of Credit.

(h) Letter of Credit Fees. The Borrower shall pay to the Administrative Agent for the account of each Revolving Credit Lender in accordance with its Applicable Revolving Credit Percentage a Letter of Credit fee (the "Letter of Credit Fee") for each Letter of Credit at a rate per annum equal to the Applicable Rate times the daily amount available to be drawn under such Letter of Credit; provided, however, any Letter of Credit Fees otherwise payable for the account of a Defaulting Lender with respect to any Letter of Credit as to which such Defaulting Lender has not provided Cash Collateral satisfactory to the L/C Issuer pursuant to Section 2.15 shall be payable, to the maximum extent permitted by applicable Law, to the other Lenders in accordance with the upward adjustments in their respective Applicable Percentages allocable to such Letter of Credit pursuant to Section 2.16(a)(iv), with the balance of such fee, if any, payable to the L/C Issuer for its own account. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. Letter of Credit Fees shall be (i) due and payable on the first Business Day after the end of each fiscal quarter of the Borrower, commencing with the first

such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand and (ii) computed on a quarterly basis in arrears. If there is any change in such Applicable Rate during any quarter, the daily amount available to be drawn under each Letter of Credit shall be computed and multiplied by such Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect. Notwithstanding anything to the contrary contained herein, upon the request of the Required Revolving Lenders, while any Event of Default exists, all Letter of Credit Fees shall accrue at the Default Rate.

(i) Fronting Fee and Documentary and Processing Charges Payable to L/C Issuer. The Borrower shall pay directly to the L/C Issuer for its own account a fronting fee with respect to each Letter of Credit, at the rate per annum equal to 0.25%, computed on the daily amount available to be drawn under such Letter of Credit on a quarterly basis in arrears. Such fronting fee shall be due and payable on the tenth Business Day after the end of each fiscal quarter of the Borrower, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. In addition, the Borrower shall pay directly to the L/C Issuer for its own account the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of the L/C Issuer relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable on demand and are nonrefundable.

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

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

2.04 Swing Line Loans.

(a) The Swing Line. Subject to the terms and conditions set forth herein and in reliance upon the agreements of the other Lenders set forth in this Section 2.04, the Swing Line Lender may, in its sole discretion, make loans (each such loan, a "Swing Line Loan") to the Borrower from time to time on any Business Day during the Availability Period in an aggregate amount not to exceed at any time outstanding the amount of the Swing Line Sublimit, notwithstanding the fact that such Swing Line Loans, when aggregated with the Applicable Revolving Credit Percentage of the Outstanding Amount of Revolving Credit Loans and L/C Obligations of the Lender acting as Swing Line Lender, may exceed the amount of such Lender's Revolving Credit Commitment; provided, however, that after giving effect to any Swing Line Loan, (i) the Total Revolving Credit Outstandings shall not exceed the Revolving Credit Facility at such time, and (ii) the aggregate Outstanding Amount of the Revolving Credit Loans of any Revolving Credit Lender at such time, plus such Revolving Credit Lender's Applicable

Revolving Credit Percentage of the Outstanding Amount of all L/C Obligations at such time, plus such Revolving Credit Lender's Applicable Revolving Credit Percentage of the Outstanding Amount of all Swing Line Loans at such time shall not exceed such Lender's Revolving Credit Commitment, and provided further that the Borrower shall not use the proceeds of any Swing Line Loan to refinance any outstanding Swing Line Loan. Within the foregoing limits, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.04, prepay under Section 2.05, and reborrow under this Section 2.04. Each Swing Line Loan shall bear interest only at a rate based on the Base Rate. Immediately upon the making of a Swing Line Loan, each Revolving Credit Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Swing Line Lender a risk participation in such Swing Line Loan in an amount equal to the product of such Revolving Credit Lender's Applicable Revolving Credit Percentage times the amount of such Swing Line Loan.

(b) Borrowing Procedures. Each Swing Line Borrowing shall be made upon the Borrower's irrevocable notice to the Swing Line Lender and the Administrative Agent, which may be given by telephone. Each such notice must be received by the Swing Line Lender and the Administrative Agent not later than 1:00 p.m. on the requested borrowing date, and shall specify (i) the amount to be borrowed, which shall be a minimum of \$100,000, and (ii) the requested borrowing date, which shall be a Business Day. Each such telephonic notice must be confirmed promptly by delivery to the Swing Line Lender and the Administrative Agent of a written Swing Line Loan Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Promptly after receipt by the Swing Line Lender of any telephonic Swing Line Loan Notice, the Swing Line Lender will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has also received such Swing Line Loan Notice and, if not, the Swing Line Lender will notify the Administrative Agent (by telephone or in writing) of the contents thereof. Unless the Swing Line Lender has received notice (by telephone or in writing) from the Administrative Agent (including at the request of any Revolving Credit Lender) prior to 2:00 p.m. on the date of the proposed Swing Line Borrowing (A) directing the Swing Line Lender not to make such Swing Line Loan as a result of the limitations set forth in the first proviso to the first sentence of Section 2.04(a), or (B) that one or more of the applicable conditions specified in Article IV is not then satisfied, then, subject to the terms and conditions hereof, the Swing Line Lender will, not later than 3:00 p.m. on the borrowing date specified in such Swing Line Loan Notice, make the amount of its Swing Line Loan available to the Borrower at its office either by (i) crediting the account of the Borrower on the books of the Swing Line Lender or (ii) wire transfer of such funds in immediately available funds, in each case in accordance with instructions provided to the Swing Line Lender by the Borrower. Notwithstanding the foregoing, if the Swing Line Lender shall elect, pursuant to Section 2.04(a), not to fund any Swing Line Loan for any reason, the Swing Line Lender shall promptly notify the Borrower and the Administrative Agent of such election after the receipt of the relevant Swing Line Loan Notice.

(c) Refinancing of Swing Line Loans. (i) The Swing Line Lender at any time in its sole and absolute discretion may request, on behalf of the Borrower (which hereby irrevocably authorizes the Swing Line Lender to so request on its behalf), that each Revolving Credit Lender make a Base Rate Loan in an amount equal to such Lender's Applicable Revolving Credit Percentage of the amount of Swing Line Loans then outstanding. Such request

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

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

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

(iv) Each Revolving Credit Lender's obligation to make Revolving Credit Loans or to purchase and fund risk participations in Swing Line Loans pursuant to this Section 2.04(c) shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the Swing Line Lender, the Borrower or any other Person for any reason whatsoever, (B) the occurrence or continuance of a Default, or (C) any other occurrence,

event or condition, whether or not similar to any of the foregoing; provided, however, that each Revolving Credit Lender's obligation to make Revolving Credit Loans pursuant to this Section 2.04(c) is subject to the conditions set forth in Section 4.02. No such funding of risk participations shall relieve or otherwise impair the obligation of the Borrower to repay Swing Line Loans, together with interest as provided herein.

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

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

(e) Interest for Account of Swing Line Lender. The Swing Line Lender shall be responsible for invoicing the Borrower for interest on the Swing Line Loans. Until a Revolving Credit Lender funds its Base Rate Loan or risk participation pursuant to this Section 2.04 to refinance such Revolving Credit Lender's Applicable Revolving Credit Percentage of any Swing Line Loan, interest in respect of such Applicable Revolving Credit Percentage shall be solely for the account of the Swing Line Lender.

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

2.05 Prepayments.

(a) Optional. (i) The Borrower may, upon notice to the Administrative Agent, at any time or from time to time voluntarily prepay any Loans in whole or in part without premium or penalty; provided that (A) such notice must be received by the Administrative Agent not later than 11:00 a.m. (1) three Business Days prior to any date of prepayment of Eurodollar Rate Loans and (2) on the date of prepayment of Base Rate Loans; (B) any prepayment of Eurodollar Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof; and (C) any prepayment of Base Rate Loans shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof or, in each case, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment for each Class of Loans to be prepaid and the Type(s) of Loans to be prepaid and, if Eurodollar Rate Loans are to be prepaid, the Interest Period(s) of such Loans.

The Administrative Agent will promptly notify each Appropriate Lender of its receipt of each such notice, and of the amount of such Lender's ratable portion of such prepayment (based on such Lender's Applicable Percentage in respect of the relevant Facility). If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein; provided that any such notice of a prepayment to be made in connection with any refinancing of all of the Facilities with the proceeds of such refinancing or of any incurrence of Indebtedness, may be, if expressly so stated to be, contingent upon the consummation of such refinancing or incurrence (provided further that the failure of such contingency shall not relieve the Borrower from its obligations in respect thereof under Section 3.05). Any prepayment of a Eurodollar Rate Loan shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05. Each prepayment of Tranche A Term Loans pursuant to this Section 2.05(a) shall be applied at the direction of the Borrower or, if not so directed, to the remaining principal repayment installments thereof in direct order of maturity. Each prepayment of any other Class of Term Loans pursuant to this Section 2.05(a) shall be applied as set forth in the applicable Additional Credit Extension Amendment. The prepayment of Revolving Credit Loans shall be made on a pro rata basis across all Classes of Revolving Credit Loans (except to the extent that any applicable Additional Credit Extension Amendment provides that the Class of Revolving Credit Loans established thereunder shall be entitled to less than pro rata treatment). Each prepayment shall be paid to the Appropriate Lenders in accordance with their respective Applicable Percentages (except as permitted under Section 2.16) in respect of the Class of Loans designated to be prepaid by the Borrower; provided that such prepayment shall be applied first to Base Rate Loans to the full extent thereof before application to Eurodollar Rate Loans, in each case in a manner that minimizes the amount of any payments required to be made by the Borrower pursuant to Section 3.05.

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

(b) Mandatory. (i) Within five Business Days after financial statements have been delivered pursuant to Section 6.01(a) (commencing with the delivery of the financial statements for the fiscal year in which the Amendment and Restatement Effective Date occurs) and the related Compliance Certificate has been delivered pursuant to Section 6.02(a), the Borrower shall prepay an aggregate principal amount of the Facilities equal to the excess (if any) of (A) 50% (such percentage as it may be reduced as described below, the "ECF Percentage") of Excess Cash Flow for the ECF Period then ended over (B) the sum of (1) the aggregate principal amount of Term Loans voluntarily prepaid pursuant to Section 2.05(a)(i) during such ECF Period (for the avoidance of doubt, including the aggregate principal amount of term loans under the Original Credit Agreement voluntarily prepaid during such ECF Period on or before the Amendment and Restatement Effective Date) and (2) solely to the extent the amount of the

Revolving Credit Commitments are reduced pursuant to Section 2.06 in connection therewith (and solely to the extent of the amount of such reduction), the aggregate principal amount of Revolving Credit Loans voluntarily prepaid pursuant to Section 2.05(a)(i) during such ECF Period (such prepayments to be applied as set forth in clause (iv) below); provided that (A) the ECF Percentage shall be 25% if the Consolidated Leverage Ratio as at the end of the ECF Period covered by such financial statements is less than or equal to 3.00:1.00 and greater than 2.25:1.00 and (B) the ECF Percentage shall be 0% if the Consolidated Leverage Ratio as at the end of the ECF Period covered by such financial statements is less than or equal to 2.25:1.00.

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

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

(iv) Each prepayment of Loans pursuant to the foregoing provisions of this Section 2.05(b) shall be applied first to prepay each Class of Term Loans on a pro rata basis (except to the extent that any applicable Additional Credit Extension Amendment provides that the Class of Term Loans made thereunder shall be entitled to less than pro rata treatment; *provided* that any prepayment of Term Loans required as a result of the incurrence of Refinancing Term Loans shall be applied solely to the applicable Class or tranche of outstanding Term Loans to be refinanced thereby), and (within each Class) (x) in the case of the Tranche A Term Facility, to the respective scheduled principal repayment installments thereof due within the twelve months after such prepayment in direct order of maturity and thereafter to the remaining scheduled principal repayment installments thereof on a pro rata basis and (y) in the

case of any other Class, as set forth in the applicable Additional Credit Extension Amendment and, second, to the Revolving Credit Facility in the manner set forth in clause (vi) of this Section 2.05(b) (without reduction of commitments); provided that prepayments required by initial borrowings under Replacement Revolving Credit Commitments shall be applied only to borrowings under the Replaced Revolving Credit Commitments in the manner set forth in clause (vi) of this Section 2.05(b) (with reduction or termination of commitments as required by clause (i) of the proviso to Section 2.20(a)). Each such prepayment shall be applied first to Base Rate Loans to the full extent thereof before application to Eurodollar Rate Loans, in each case in a manner that minimizes the amount of any payments required to be made by the Borrower pursuant to Section 3.05.

(v) If for any reason the Total Revolving Credit Outstandings at any time exceed the Revolving Credit Facility at such time, the Borrower shall immediately prepay Revolving Credit Loans, Swing Line Loans and L/C Borrowings and/or Cash Collateralize the L/C Obligations (other than the L/C Borrowings) in an aggregate amount equal to such excess (without reduction of commitments).

(vi) Prepayments of the Revolving Credit Facility made pursuant to this Section 2.05(b), first, shall be applied ratably to the L/C Borrowings and the Swing Line Loans, second, shall be applied ratably to the outstanding Revolving Credit Loans, and, third, shall be used to Cash Collateralize the remaining L/C Obligations. Upon the drawing of any Letter of Credit that has been Cash Collateralized, the funds held as Cash Collateral shall be applied (without any further action by or notice to or from the Borrower or any other Loan Party) to reimburse the L/C Issuer or the Revolving Credit Lenders, as applicable.

2.06 Termination or Reduction of Commitments.

(a) Optional. The Borrower may, upon notice to the Administrative Agent, terminate the Revolving Credit Commitments, the Letter of Credit Sublimit or the Swing Line Sublimit, or from time to time permanently reduce the Revolving Credit Commitments, the Letter of Credit Sublimit or the Swing Line Sublimit; provided that (i) any such notice shall be received by the Administrative Agent not later than 11:00 a.m. three Business Days prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of \$1,000,000 or any whole multiple of \$1,000,000 in excess thereof, (iii) the Borrower shall not terminate or reduce (A) the Revolving Credit Facility if, after giving effect thereto and to any concurrent prepayments hereunder, the Total Revolving Credit Outstandings would exceed the Revolving Credit Facility, (B) the Letter of Credit Sublimit if, after giving effect thereto, the Outstanding Amount of L/C Obligations not fully Cash Collateralized hereunder would exceed the Letter of Credit Sublimit, or (C) the Swing Line Sublimit if, after giving effect thereto and to any concurrent prepayments hereunder, the Outstanding Amount of Swing Line Loans would exceed the Letter of Credit Sublimit, (iv) any such notice of termination to be made in connection with any refinancing of all of the Facilities with the proceeds of such refinancing or of any incurrence of Indebtedness, may be, if expressly so stated to be, contingent upon the consummation of such refinancing or incurrence (provided that the failure to terminate or reduce as a result of the failure of such contingency shall not relieve the Borrower from its obligations in respect thereof under Section 3.05) and (v) any reduction of Revolving Credit Commitments (including termination to \$0) shall be made on a pro rata basis across all Classes of Revolving

Credit Commitments, except to the extent that any Class of Revolving Credit Commitments established pursuant to an Additional Credit Extension Amendment provides that it is entitled to less than pro rata treatment; provided that any reduction of Revolving Credit Commitments as a result of the establishment of Replacement Revolving Credit Commitments shall be applied solely to the Replaced Revolving Credit Commitments.

(b) Mandatory. (i) The aggregate Tranche A Term Loan Commitments shall be automatically and permanently reduced to zero upon the funding of the Tranche A Term Loans on the Amendment and Restatement Effective Date.

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

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

2.07 Repayment of Loans.

(a) Tranche A Term Loans. The Borrower shall repay to the Administrative Agent for the ratable account of the Tranche A Term Lenders, on each date set forth below, the aggregate principal amount of Tranche A Term Loans set forth opposite such date (which payments shall be reduced as a result of the application of prepayments in accordance with Sections 2.05 and 2.17):

<u>Date</u>	<u>Tranche A Term Loan Principal Amortization Payment</u>
September 30, 2012	\$ 11,000,000
December 31, 2012	\$ 11,000,000
March 31, 2013	\$ 11,000,000
June 30, 2013	\$ 11,000,000
September 30, 2013	\$ 11,000,000
December 31, 2013	\$ 11,000,000
March 31, 2014	\$ 11,000,000
June 30, 2014	\$ 11,000,000
September 30, 2014	\$ 22,000,000
December 31, 2014	\$ 22,000,000

<u>Date</u>	<u>Tranche A Term Loan Principal Amortization Payment</u>
March 31, 2015	\$ 22,000,000
June 30, 2015	\$ 22,000,000
September 30, 2015	\$ 22,000,000
December 31, 2015	\$ 22,000,000
March 31, 2016	\$ 22,000,000
June 30, 2016	\$ 22,000,000
September 30, 2016	\$ 154,000,000
December 31, 2016	\$ 154,000,000
March 31, 2017	\$ 154,000,000

; provided, however, that the final principal repayment installment of the Tranche A Term Loans shall be repaid on the Maturity Date for the Tranche A Term Facility and in any event shall be in an amount equal to the aggregate principal amount of all Tranche A Term Loans outstanding on such date.

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

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

2.08 Interest.

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

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

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

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

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

(a) Commitment Fee. The Borrower shall pay to the Administrative Agent for the account of each Revolving Credit Lender in accordance with its Applicable Revolving Credit Percentage, a commitment fee equal to the Applicable Fee Rate times the actual daily amount by which the Revolving Credit Facility exceeds the sum of (i) the Outstanding Amount of Revolving Credit Loans (excluding Swing Line Loans) and (ii) the Outstanding Amount of L/C Obligations; provided, however, that no commitment fee shall accrue on any of the Commitments of a Defaulting Lender so long as such Lender shall be a Defaulting Lender. The commitment fee shall accrue at all times during the Availability Period, including at any time during which one or more of the conditions in Article IV is not met, and shall be due and payable quarterly in arrears on the last Business Day of each fiscal quarter of the Borrower, commencing on the first such day to occur after the Amendment and Restatement Effective Date, and on the last day of the Availability Period for the Revolving Credit Facility. The commitment fee shall be calculated quarterly in arrears.

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

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

2.10 Computation of Interest and Fees; Retroactive Adjustments of Applicable Rate.

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

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

2.11 Evidence of Debt.

(a) The Commitments of and Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and by one or more entries in the Register maintained by the Administrative Agent acting as non-fiduciary agent solely for the purpose of Treasury Regulation 5f.103-1(c), as agent for the Borrower, in each case, in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be conclusive absent manifest error of the amount of the Credit Extensions made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Note, which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

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

2.12 Payments Generally; Administrative Agent's Clawback.

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

(b) (i) Funding by Lenders; Presumption by Administrative Agent. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing of Eurodollar Rate Loans (or, in the case of any Borrowing of Base Rate Loans, prior to 12:00 noon on the date of such Borrowing) that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with Section 2.02 (or, in the case of a Borrowing of Base Rate Loans, that such Lender has made such share available in accordance with and at the time required by Section 2.02) and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount in immediately available funds with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (A) in the case of a payment to be made by such Lender, the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing, and (B) in the case of a payment to be made by the Borrower, the interest rate applicable to Base Rate Loans. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(ii) Payments by Borrower; Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the L/C

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

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

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

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

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

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

2.13 Sharing of Payments by Lenders. If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of (a) Obligations in respect of any the Facilities due and payable to such Lender hereunder and under the other Loan

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

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

(ii) the provisions of this Section shall not be construed to apply to (A) any payment made by or on behalf of the Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender), (B) the application of Cash Collateral provided for in Section 2.03 or 2.15, (C) any prepayments made pursuant to Section 2.17; or (D) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or subparticipations in L/C Obligations or Swing Line Loans to any assignee or Participant; and

(iii) the provisions of this Section shall be subject to the provisions of Sections 2.14, 2.18, 2.19 and 2.20.

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

2.14 Increase in Commitments.

(a) The Borrower may by written notice to the Administrative Agent elect to seek (x) commitments (“Additional Revolving Credit Commitments”) to increase the Revolving Credit Commitments and/or (y) commitments (“Additional Term Commitments”) to increase the aggregate principal amount of any existing Class of Term Loans or to establish one or more new Classes of Term Loans; provided that:

(i) the aggregate amount of all Additional Commitments shall not exceed \$500,000,000;

(ii) any such increase or any new Class shall be in an aggregate amount of \$10,000,000 or any whole multiple of \$500,000 in excess thereof; provided that such amount may be less than \$10,000,000 if such amount represents all remaining availability under the limit set forth in the preceding clause (i);

(iii) the final maturity date of any Additional Term Loans shall be no earlier than the Latest Maturity Date;

(iv) the Additional Term Loans shall have a Weighted Average Life to Maturity equal to or greater than the then remaining Weighted Average Life to Maturity of each Class of Term Loans outstanding prior to such proposed incurrence of Additional Term Loans (the “Outstanding Term Loans”);

(v) the Applicable Rate with respect to any Additional Term Loans shall be determined by the Borrower and the lenders of the Additional Term Loans; provided that in the event that the Applicable Rate for any Additional Non-Institutional Term Loans is greater than the Applicable Rate for the Tranche A Term Loans by more than 50 basis points, then the Applicable Rate for the Tranche A Term Loans shall be increased to the extent necessary so that the Applicable Rate for the Additional Non-Institutional Term Loans is not more than 50 basis points higher than the Applicable Rate for the Tranche A Term Loans; provided, further, that, in determining the Applicable Rate with respect to Additional Term Loans or the applicable Class of Outstanding Term Loans pursuant to this clause (v), (A) original issue discount (“OID”) or upfront or similar fees (which shall be deemed to constitute like amounts of OID) payable by the Borrower to the lenders providing such Additional Term Loans or such Outstanding Term Loans in the primary syndication thereof (with OID being equated to interest based on an assumed four-year life to maturity) shall be included, (B) customary arrangement or commitment fees payable to any lead arranger (or its affiliates) in connection with the Additional Term Loans or Outstanding Term Loans shall be excluded, and (C) the amount by which any Eurodollar Rate “floor” or Base Rate “floor” applicable to any Additional Term Loans exceeds the Eurodollar Rate “floor” or Base Rate “floor” applicable to such Outstanding Term Loans shall be equated to an increase in the Applicable Rate for the Additional Term Loans for purposes of this clause (v);

(vi) no existing Lender shall be required to provide any Additional Commitments;

(vii) subject to clause (iv), the amortization schedule applicable to the Additional Term Commitments shall be determined by the Borrower and the lenders thereof;

(viii) except during the Collateral Suspension Period (unless the Borrower shall have elected to terminate the Collateral Suspension Period), the Additional Term Loans shall rank pari passu with or junior in right of payment and/or of security with the existing Loans, and if junior in right of payment and/or security, on terms and pursuant to documentation reasonably satisfactory to the Administrative Agent; and

(ix) the Additional Term Loans may have optional prepayment terms (including call protection and prepayment premiums) and mandatory prepayment terms as may be agreed between the Borrower and the lenders of the Additional Term Loans so long as such Additional Term Loans do not participate on a greater than pro rata basis in any such mandatory prepayments as compared to Tranche A Term Lenders.

(b) Each such notice shall specify (x) the date (each, an “Additional Commitments Effective Date”) on which the Borrower proposes that the Additional Commitments shall be effective, which shall be a date reasonably acceptable to the Administrative Agent and (y) the identity of the Persons (each of which shall be an Eligible Assignee (for this purpose treating a Lender of Additional Commitments as if it were an assignee)) whom the Borrower proposes would provide the Additional Commitments and the portion of the Additional Commitment to be provided by each such Person. As a condition precedent to the effectiveness of any Additional Commitments, the Borrower shall deliver to the Administrative Agent a certificate dated as of the Additional Commitments Effective Date signed by a Responsible Officer of the Borrower certifying that, before and after giving effect to the Additional Commitments (and assuming full utilization thereof), (i) the representations and warranties contained in Article V and the other Loan Documents are true and correct in all material respects on and as of the Additional Commitments Effective Date, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall have been true and correct in all material respects as of such earlier date, and except that for purposes of this Section 2.14(b), the representations and warranties contained in Section 5.05(a) and Section 5.05(b) shall be deemed to refer to the most recent financial statements furnished pursuant to subsections (a) and (b), respectively, of Section 6.01, (ii) no Default or Event of Default exists and (iii) the Borrower shall be in compliance, on a Pro Forma Basis, with the financial covenants set forth in Section 7.11. On each Additional Commitments Effective Date with respect to any Additional Term Commitment, each Person with an Additional Term Commitment shall make an Additional Term Loan to the Borrower in a principal amount equal to such Person’s Additional Term Commitment. The Borrower shall prepay any Revolving Credit Loans outstanding on the Additional Commitments Effective Date with respect to any Additional Revolving Credit Commitment (and pay any additional amounts required pursuant to Section 3.05) to the extent necessary to keep the outstanding Revolving Credit Loans ratable with any revised Applicable Revolving Credit Percentages arising from any nonratable increase in the Revolving Credit Commitments. If there is a new Borrowing of Revolving Credit Commitments on such Additional Commitments Effective Date, the Revolving Credit Lenders after giving effect to such Additional Revolving Credit Commitments shall make such Revolving Credit Loans in accordance with Section 2.01(b).

(c) Any other terms of and documentation entered into in respect of any Additional Term Commitments shall be on terms and pursuant to documentation agreed between the Borrower and the Lenders providing such Additional Term Commitments (including with respect to voluntary and mandatory prepayments), other than as contemplated by Section 2.14(a)(iii), (iv), (v), (vii), (viii) or (ix) above; provided that to the extent such other terms and documentation in respect of any Additional Non-Institutional Term Loans are not consistent with those of the Tranche A Term Loans (except to the extent permitted by Section 2.14(a)(iii), (iv), (v), (vii), (viii) or (ix) above) they shall be reasonably satisfactory to the Administrative Agent.

(d) The Additional Commitments shall be documented by an Additional Credit Extension Amendment executed by the Persons providing the Additional Commitments (and the other Persons specified in the definition of Additional Credit Extension Amendment but no other existing Lender), and the Additional Credit Extension Amendment may provide for such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section 2.14.

(e) This Section 2.14 shall supersede any provisions in Section 2.13 or Section 10.01 to the contrary.

2.15 Cash Collateral.

(a) Certain Credit Support Events. Upon the request of the Administrative Agent or the L/C Issuer (i) if the L/C Issuer has honored any full or partial drawing request under any Letter of Credit and such drawing has resulted in an L/C Borrowing, or (ii) if, as of the Letter of Credit Expiration Date, any L/C Obligation for any reason remains outstanding, the Borrower shall, in each case, promptly Cash Collateralize the then Outstanding Amount of all L/C Obligations. At any time that there shall exist a Defaulting Lender, upon the request of the Administrative Agent, the L/C Issuer or the Swing Line Lender, the Borrower shall promptly deliver to the Administrative Agent Cash Collateral in an amount sufficient to cover all Fronting Exposure (after giving effect to Section 2.16(a)(iv) and any Cash Collateral provided by the Defaulting Lender).

(b) Grant of Security Interest. All Cash Collateral (other than credit support not constituting funds subject to deposit) shall be maintained in blocked, non-interest bearing deposit accounts at the Administrative Agent. The Borrower, and to the extent provided by any Lender, such Lender, hereby grants to (and subjects to the control of) the Administrative Agent, for the benefit of the Administrative Agent, the L/C Issuer and the Lenders (including the Swing Line Lender), and agrees to maintain, a first priority security interest in all such cash, deposit accounts and all balances therein, and all other property so provided as collateral pursuant hereto, and in all proceeds of the foregoing, all as security for the obligations to which such Cash Collateral may be applied pursuant to Section 2.15(c). If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent as herein provided, or that the total amount of such Cash Collateral is less

than the applicable Fronting Exposure and other obligations secured thereby, the Borrower or the relevant Defaulting Lender will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency.

(c) Application. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under any of this Section 2.15 or Sections 2.03, 2.04, 2.05, 2.06, 2.16 or 8.02 in respect of Letters of Credit or Swing Line Loans shall be held and applied to the satisfaction of the specific L/C Obligations, Swing Line Loans, obligations to fund participations therein (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided, prior to any other application of such property as may be provided for herein.

(d) Release. Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure or other obligations shall be released promptly (i) following the elimination of the applicable Fronting Exposure or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Lender (or, as appropriate, its assignee following compliance with Section 10.13)) or (ii) to the extent the aggregate amount of Cash Collateral exceeds the Fronting Exposure; provided, however, (x) that Cash Collateral furnished by or on behalf of a Loan Party shall not be released during the continuance of a Default or Event of Default (and following application as provided in this Section 2.15 may be otherwise applied in accordance with Section 8.03), and (y) the Person providing Cash Collateral and the L/C Issuer or Swing Line Lender, as applicable, may agree that Cash Collateral shall not be released but instead held to support future anticipated Fronting Exposure or other obligations.

2.16 Defaulting Lenders.

(a) Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable Law:

(i) Waivers and Amendments. That Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement or any other Loan Document shall be restricted as set forth in Section 10.01.

(ii) Reallocation of Payments. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of that Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VIII or otherwise, and including any amounts made available to the Administrative Agent by that Defaulting Lender pursuant to Section 10.08), shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first*, to the payment of any amounts owing by that Defaulting Lender to the Administrative Agent hereunder; *second*, to the payment on a pro rata basis of any amounts owing by that Defaulting Lender to the L/C Issuer or Swing Line Lender hereunder; *third*, if so determined by the Administrative Agent or requested by the L/C Issuer or Swing Line Lender, to be held as Cash Collateral for future funding obligations of that Defaulting Lender of any participation in any Swing

Line Loan or Letter of Credit; *fourth*, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which that Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; *fifth*, if so determined by the Administrative Agent and the Borrower, to be held in a non-interest bearing deposit account and released in order to satisfy obligations of that Defaulting Lender to fund Loans under this Agreement; *sixth*, to the payment of any amounts owing to the Lenders, the L/C Issuer or Swing Line Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, the L/C Issuer or Swing Line Lender against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to that Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans or L/C Borrowings in respect of which that Defaulting Lender has not fully funded its appropriate share and (y) such Loans or L/C Borrowings were made at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and L/C Borrowings owed to, all non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or L/C Borrowings owed to, that Defaulting Lender. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.16(a)(ii) shall be deemed paid to and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees. That Defaulting Lender (x) shall be limited in its right to receive commitment fees as provided in Section 2.09(a) and (y) shall be limited in its right to receive Letter of Credit Fees as provided in Section 2.03(h).

(iv) Reallocation of Applicable Percentages to Reduce Fronting Exposure. During any period in which there is a Defaulting Lender, for purposes of computing the amount of the obligation of each non-Defaulting Lender to acquire, refinance or fund participations in Letters of Credit or Swing Line Loans pursuant to Sections 2.03 and 2.04, the "Applicable Percentage" of each non-Defaulting Lender shall be computed without giving effect to the Commitment of that Defaulting Lender; provided, that, (i) each such reallocation shall be given effect only if, at the date the applicable Lender becomes a Defaulting Lender, no Default or Event of Default exists; and (ii) the aggregate obligation of each non-Defaulting Lender to acquire, refinance or fund participations in Letters of Credit and Swing Line Loans shall not exceed the positive difference, if any, of (1) the Revolving Credit Commitment of that non-Defaulting Lender minus (2) the aggregate Outstanding Amount of the Revolving Credit Loans of that Lender.

(b) Defaulting Lender Cure. If the Borrower, the Administrative Agent, the Swing Line Lender and the L/C Issuer agree in writing in their sole discretion that a Defaulting Lender should no longer be deemed to be a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), such Lender will, to the extent applicable, purchase that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Revolving Credit Loans and funded and unfunded participations in Letters of Credit and Swing Line Loans to be held on a pro rata basis by the Lenders in accordance with their Applicable Percentages (without giving effect to Section 2.16(a)(iv)), whereupon that Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

2.17 Discounted Voluntary Prepayments.

(a) Notwithstanding anything to the contrary contained in Section 2.05 or any other provision of this Agreement, subject to the terms and conditions set forth or referred to below, the Borrower may from time to time, at its discretion, prepay Term Loans (each, a "Discounted Prepayment Offer"), each such Discounted Prepayment Offer to be managed exclusively by the Lead Arrangers or another investment bank of recognized standing selected by the Borrower (in such capacity, the "Auction Manager"), so long as the following conditions are satisfied:

(i) each Discounted Prepayment Offer shall be conducted in accordance with the procedures, terms and conditions set forth in this Section 2.17 and the Auction Procedures;

(ii) no Default or Event of Default shall have occurred and be continuing on the date of the delivery of any Auction Notice and at the time of prepayment of any Term Loans in connection with any Discounted Prepayment Offer;

(iii) the maximum principal amount (calculated on the face amount thereof) of all Term Loans of any Class that the Borrower shall offer to prepay in any such Discounted Prepayment Offer shall be no less than \$10,000,000 (unless another amount is agreed to by the Administrative Agent);

(iv) all Term Loans so prepaid by the Borrower shall automatically be cancelled and retired by the Borrower on the applicable settlement date (and, for the avoidance of doubt, may not be reborrowed);

(v) no more than one Discounted Prepayment Offer may be ongoing at any one time and no more than four Discounted Prepayment Offers may be made in any one fiscal year;

(vi) the Borrower represents and warrants that, at the commencement and settlement of the Discounted Prepayment Offer, no Loan Party shall have any material non-public information relating to the Borrower that (A) has not been previously disclosed in writing to the Administrative Agent and the Lenders (other than because such Lender does not wish to receive such material non-public information relating to the Borrower) prior to such time and (B) could reasonably be expected to have a material effect upon, or otherwise be material to, a Lender's decision to participate in the Discounted Prepayment Offer; and

(vii) after giving effect to any prepayment of Term Loans pursuant to this Section 2.17, the sum of (x) the amount of availability under the Revolving Credit Commitments and (y) the aggregate amount of all Unrestricted Cash and Cash Equivalents of the Borrower and its Subsidiaries shall not be less than \$50,000,000;

(viii) the Borrower shall be in compliance with Section 7.11 on a Pro Forma Basis after giving effect to the Discounted Prepayment Offer; and

(ix) at the time of the consummation of each purchase of Term Loans through a Discounted Prepayment Offer, the Borrower shall have delivered to the Auction Manager and the Administrative Agent an officer's certificate of a Responsible Officer certifying as to compliance with preceding clauses (vi), (vii) and (viii).

(b) The Borrower must terminate any Discounted Prepayment Offer if it fails to satisfy one or more of the conditions set forth above which are required to be met at the time at which the Term Loans would have been prepaid pursuant to such Discounted Prepayment Offer. If the Borrower commences any Discounted Prepayment Offer (and all relevant requirements set forth above which are required to be satisfied at the time of the commencement of such Discounted Prepayment Offer have in fact been satisfied), and if at such time of commencement the Borrower reasonably believes that all required conditions set forth above which are required to be satisfied at the time of the consummation of such Discounted Prepayment Offer shall be satisfied, then the Borrower shall have no liability to any Term Lender or any other Person for any termination of such Discounted Prepayment Offer as a result of its failure to satisfy one or more of the conditions set forth above which are required to be met at the time which otherwise would have been the time of consummation of such Discounted Prepayment Offer, and any such failure shall not result in any Default or Event of Default hereunder. With respect to all prepayments of Term Loans made by the Borrower pursuant to this Section 2.17, the Borrower shall pay on the settlement date of each such prepayment all accrued and unpaid interest (except to the extent otherwise set forth in the relevant Auction Procedures), if any, on the prepaid Term Loans up to the settlement date of such prepayment.

(c) All loan prepayments conducted pursuant to Discounted Prepayment Offers shall not constitute voluntary or mandatory prepayments for purposes of Section 2.05 hereof, but Term Loans of any Class prepaid pursuant to this Section 2.17 shall reduce scheduled principal repayments installments for such Class in direct order of maturity to the repayment installments due within the twelve months succeeding the prepayment and thereafter to the remaining scheduled principal repayments installments on a pro rata basis.

(d) The Auction Manager acting in its capacity as such hereunder shall be entitled to the benefits of the provisions of Article IX and Section 10.04 to the same extent as if each reference therein to the “Administrative Agent” were a reference to the Auction Manager, and the Administrative Agent shall cooperate with the Auction Manager as reasonably requested by the Auction Manager in order to enable it to perform its responsibilities and duties in connection with each Discounted Prepayment Offer.

2.18 Extended Term Loans and Extended Revolving Credit Commitments.

(a) The Borrower may at any time and from time to time request that all or a portion of the Term Loans of any Class (the Loans of such applicable Class, the “Existing Term Loans”) be converted into a new Class of Term Loans (the Loans of such applicable Class, the “Extended Term Loans”) with terms consistent with this Section 2.18. In order to establish any Extended Term Loans, the Borrower shall provide a notice to the Administrative Agent (a “Term Loan Extension Request”) setting forth the proposed terms of the Extended Term Loans to be established, which shall be identical to those applicable to the Existing Term Loans from which such Extended Term Loans are to be converted except that:

(i) the Maturity Date of the Extended Term Loans shall be later than the Maturity Date of the Existing Term Loans;

(ii) all or any of the scheduled amortization payments of principal of the Extended Term Loans may be delayed to later dates than the scheduled amortization payments of principal of the Existing Term Loans;

(iii) (A) the interest rates (including through fixed interest rates), interest margins, rate floors, upfront fees, funding discounts, original issue discounts and premiums with respect to the Extended Term Loans may be different than those for the Existing Term Loans and (B) additional fees and/or premiums may be payable to the Extending Lenders providing such Extended Term Loans in addition to any of the items contemplated by the preceding clause (A);

(iv) the Extended Term Loans may have optional prepayment terms (including call protection and prepayment premiums) and mandatory prepayment terms as may be agreed between the Borrower and the Extending Lenders so long as such Extended Term Loans do not participate on a greater than pro rata basis in any such mandatory prepayments as compared to Tranche A Term Lenders; and

(v) the Loan Parties may be subject to covenants and other terms for the benefit of the Extending Lenders that apply only after the Latest Maturity Date.

(b) The Borrower may at any time and from time to time request that all or a portion of the Revolving Credit Commitments of any Class (the Commitments of such applicable Class, the “Existing Revolving Credit Commitments”) be converted into a new Class of Revolving Credit Commitments (the Commitments of such applicable Class, the “Extended Revolving Credit Commitments”) with terms consistent with this Section 2.18. In order to establish any Extended Revolving Credit Commitments, the Borrower shall provide a notice to

the Administrative Agent (a “Revolving Credit Extension Request”) setting forth the proposed terms of the Extended Revolving Credit Commitments to be established, which terms shall be identical to those applicable to the Existing Revolving Credit Commitments except that:

(i) the Maturity Date of the Extended Revolving Credit Commitments shall be later than the Maturity Date of the Existing Revolving Credit Commitments;

(ii) (A) the interest rates, interest margins, rate floors, upfront fees, funding discounts, original issue discounts and premiums with respect to the Extended Revolving Credit Commitments may be different than those for the Existing Revolving Credit Commitments and/or (B) additional fees and/or premiums may be payable to the Extending Lenders in addition to or in lieu of any of the items contemplated by the preceding clause (A) and/or (C) the undrawn revolving credit commitment fee rate with respect to the Extended Revolving Credit Commitments may be different than those for the Existing Revolving Credit Commitments; and

(iii) the Loan Parties may be subject to covenants and other terms for the benefit of the Extending Lenders that apply only after the Latest Maturity Date.

(c) Each Extension Request shall specify the date (the “Extension Effective Date”) on which the Borrower proposes that the conversion of an Existing Class into an Extended Class shall be effective, which shall be a date reasonably satisfactory to the Administrative Agent. Each Lender of an Existing Class that is requested to be extended shall be offered the opportunity to convert its Existing Class into the Extended Class on the same basis as each other Lender of such Existing Class. Any Lender (to the extent applicable, an “Extending Lender”) wishing to have all or a portion of its Existing Class subject to such Extension Request converted into an Extended Class shall notify the Administrative Agent (an “Extension Election”) on or prior to the date specified in such Extension Request of the amount of its Existing Class subject to such Extension Request that it has elected to convert into an Extended Class. In the event that the aggregate portion of the Existing Class subject to Extension Elections exceeds the amount of the Extended Class requested pursuant to the Extension Request, the portion of the Existing Class converted shall be allocated on a pro rata basis based on the amount of the Existing Class included in each such Extension Election. Notwithstanding the conversion of any Existing Revolving Credit Commitment into an Extended Revolving Credit Commitment, such Extended Revolving Credit Commitment shall be treated identically with all Existing Revolving Credit Commitments for purposes of the obligations of a Revolving Credit Lender in respect of Swing Line Loans under Section 2.04 and Letters of Credit under Section 2.03, except that the applicable Additional Credit Extension Amendment may provide that the Maturity Date for Swing Line Loans and/or the Letters of Credit may be extended and the related obligations to make Swing Line Loans and issue Letters of Credit may be continued so long as the Swing Line Lender and/or the applicable L/C Issuer, as applicable, have consented to such extensions in their sole discretion (it being understood that no consent of any other Lender shall be required in connection with any such extension).

(d) An Extended Class shall be established pursuant to an Additional Credit Extension Amendment executed by the Extending Lenders (and the other Persons specified in the definition of Additional Credit Extension Amendment but no other existing Lender). No

Additional Credit Extension Amendment shall provide for any Class of (x) Extended Term Loans in an aggregate principal amount that is less than \$10,000,000 or (y) Extended Revolving Credit Commitments in an aggregate principal amount that is less than \$5,000,000. In addition to any terms and changes required or permitted by Section 2.18(a), the Additional Credit Extension Amendment shall amend the scheduled amortization payments pursuant to Section 2.07 with respect to the Existing Term Loans from which the Extended Term Loans were converted to reduce each scheduled principal repayment amounts for the Existing Term Loans in the same proportion as the amount of Existing Term Loans to be converted pursuant to such Additional Credit Extension Amendment.

(e) Notwithstanding anything to the contrary contained in this Agreement, on the Extension Effective Date, (i) the principal amount of each Existing Term Loan shall be deemed reduced by an amount equal to the principal amount converted into an Extended Term Loan, (ii) the amount of each Existing Revolving Credit Commitment shall be deemed reduced by an amount equal to the amount converted into an Extended Revolving Credit Commitment and (iii) if, on any Extension Effective Date, any Loans of any Extending Lender are outstanding under the applicable Existing Revolving Credit Commitments, such Loans (and any related participations) shall be deemed to be converted into Loans (and related participations) made pursuant to the Extended Revolving Credit Commitments in the same proportion as such Extending Lender's Existing Revolving Credit Commitments are converted to Extended Revolving Credit Commitments.

(f) This Section 2.18 shall supersede any provisions in Section 2.13 or Section 10.01 to the contrary. Each Extended Class shall be documented by an Additional Credit Extension Amendment executed by the Extending Lenders providing such Extended Class (and the other persons specified in the definition of Additional Credit Extension Amendment but no other existing Lender), and the Additional Credit Extension Amendment may provide for such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section 2.18.

2.19 Refinancing Term Loans.

(a) The Borrower may at any time and from time to time, by written notice to the Administrative Agent, request the establishment of one or more additional Classes of term loans under this Agreement or an increase to an existing Class of term loans under this Agreement ("Refinancing Term Loans"); provided that:

(i) the proceeds of such Refinancing Term Loans shall be used, concurrently or substantially concurrently with the incurrence thereof, solely to refinance all or any portion of any outstanding Term Loans;

(ii) each Class of Refinancing Term Loans shall be in an aggregate amount of \$10,000,000 or any whole multiple of \$500,000 in excess thereof (or such other amount necessary to repay any Class of outstanding Term Loans in full);

(iii) such Refinancing Term Loans shall be in an aggregate principal amount not greater than the aggregate principal amount of Term Loans to be refinanced plus any accrued interest, fees, costs and expenses related thereto (including any original issue discount or upfront fees);

(iv) the final maturity date of such Refinancing Term Loans shall be later than the Maturity Date of the Term Loans being refinanced, and the Weighted Average Life to Maturity of such Refinancing Term Loans shall be longer than the then remaining Weighted Average Life to Maturity of each Class of Term Loans being refinanced;

(v) (A) the pricing, rate floors, discounts, fees and optional and mandatory prepayment or redemption provisions applicable to such Refinancing Term Loans shall be as agreed between the Borrower and the Refinancing Term Lenders so long as, in the case of any mandatory prepayment or redemption provisions, such Refinancing Term Lenders do not participate on a greater than pro rata basis in any such prepayments as compared to Tranche A Term Lenders and (B) the covenants and other terms applicable to such Refinancing Term Loans (excluding those terms described in the immediately preceding clause (A)), which shall be as agreed between the Borrower and the lenders providing such Refinancing Term Loans, shall not be materially more favorable (when taken as a whole) to the Refinancing Term Lenders than those applicable to any Class of Term Loans then outstanding under this Agreement (as determined by the Borrower in good faith), except to the extent such covenants and other terms apply solely to any period after the Latest Maturity Date then-applicable to any term loan facility hereunder or such covenants or other terms apply equally for the benefit of the other Lenders;

(vi) no existing Lender shall be required to provide any Refinancing Term Loans; and

(vii) except during a Collateral Suspension Period (unless the Borrower shall have elected to terminate the Collateral Suspension Period), the Refinancing Term Loans shall rank pari passu with or junior in right of payment and/or of security with the existing Loans, and if junior in right of payment and/or security, on terms and pursuant to documentation reasonably satisfactory to the Administrative Agent.

(b) Each such notice shall specify (x) the date (each, a "Refinancing Term Loan Effective Date") on which the Borrower proposes that the Refinancing Term Loans be made, which shall be a date reasonably acceptable to the Administrative Agent and (y) the identity of the Persons (each of which shall be an Eligible Assignee (for this purpose treating a Lender of Refinancing Term Loans as if it were an assignee)) whom the Borrower proposes would provide the Refinancing Term Loans and the portion of the Refinancing Term Loans to be provided by each such Person. On each Refinancing Term Loan Effective Date, each Person with a commitment for a Refinancing Term Loan (each such Person, a "Refinancing Term Lender") shall make a Refinancing Term Loan to the Borrower in a principal amount equal to such Person's Commitment therefor.

(c) This Section 2.19 shall supersede any provisions in Section 2.13 or Section 10.01 to the contrary (but shall be in addition to and not in lieu of the third paragraph of Section 10.01). The Refinancing Term Loans shall be documented by an Additional Credit Extension Amendment executed by the Persons providing the Refinancing Term Loans (and the other Persons specified in the definition of Additional Credit Extension Amendment but no other existing Lender), and the Additional Credit Extension Amendment may provide for such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section 2.19.

2.20 Replacement Revolving Credit Commitments.

(a) The Borrower may at any time and from time to time, by written notice to the Administrative Agent, request the establishment of one or more additional Classes of Revolving Credit Commitments ("Replacement Revolving Credit Commitments") to replace all or a portion of any existing Classes of Revolving Credit Commitments under this Agreement ("Replaced Revolving Credit Commitments"); provided that:

(i) substantially concurrently with the effectiveness of the Replacement Revolving Credit Commitments, all or an equivalent portion of the Revolving Credit Commitments in effect immediately prior to such effectiveness shall be terminated, and all or an equivalent portion of the Revolving Credit Loans then outstanding, together with all interest thereon, and all other amounts accrued for the benefit of the Revolving Credit Lenders, shall be repaid or paid (it being understood, however, that any Letters of Credit issued and outstanding under the Replaced Revolving Credit Commitments shall be deemed to have been issued under the Replacement Revolving Credit Commitments if the amount of such Letters of Credit would exceed the remaining amount of commitments under the Replaced Revolving Credit Commitments after giving effect to the reduction contemplated hereby);

(ii) such Replacement Revolving Credit Commitments shall be in an aggregate amount not greater than the aggregate amount of Replaced Revolving Credit Commitments to be replaced plus any accrued interest, fees, costs and expenses related thereto (including any upfront fees);

(iii) the final maturity date of such Replacement Revolving Credit Commitments shall be later than the Maturity Date of the Replaced Revolving Credit Commitments;

(iv) the Letter of Credit Sublimit and the Swing Line Sublimit under such Replacement Revolving Credit Commitments shall be as agreed between the Borrower, the Lenders providing such Replacement Revolving Credit Commitments, the Administrative Agent, the L/C Issuer (or any replacement L/C Issuer) and the Swing Line Lender (or any replacement Swing Line Lender);

(v) (A) the pricing, rate floors, discounts, fees and optional prepayment or redemption provisions applicable to such Replacement Revolving Credit Commitments shall be as agreed between the Borrower and the Replacement Revolving Lenders so long as, in the case of any optional prepayment or redemption provisions, such Replacement

Revolving Lenders do not participate on a greater than pro rata basis in any such prepayments as compared to Replaced Revolving Credit Commitments and (B) the covenants and other terms applicable to such Replacement Revolving Credit Commitments (excluding those terms described in the immediately preceding clause (A)), which shall be as agreed between the Borrower and the lenders providing such Replacement Revolving Credit Commitments, shall not be materially more favorable (when taken as a whole) to the lenders providing the Replacement Revolving Credit Commitments than those applicable to the Replaced Revolving Credit Commitments (as determined by the Borrower in good faith), except to the extent such covenants and other terms apply solely to any period after the Latest Maturity Date then applicable to any revolving credit facility hereunder or such covenants or other terms apply equally for the benefit of the other Lenders;

(vi) no existing Lender shall be required to provide any Replacement Revolving Credit Commitments; and

(vii) except during a Collateral Suspension Period (unless the Borrower shall have elected to terminate the Collateral Suspension Period), the Replacement Revolving Credit Commitments shall rank pari passu in right of payment and security with the existing Loans (other than any Loans that are subordinated in right of payment or security).

(b) Each such notice shall specify (x) the date (each, a "Replacement Revolving Credit Commitment Effective Date") on which the Borrower proposes that the Replacement Revolving Credit Commitments become effective, which shall be a date reasonably acceptable to the Administrative Agent and (y) the identity of the Persons (each of which shall be an Eligible Assignee (for this purpose treating a Lender of Replacement Revolving Credit Commitments as if it were an assignee)) whom the Borrower proposes would provide the Replacement Revolving Credit Commitments (each such person, a "Replacement Revolving Credit Lender") and the portion of the Replacement Revolving Credit Commitments to be provided by each such Person.

(c) This Section 2.20 shall supersede any provisions in Section 2.13 or Section 10.01 to the contrary. The Replacement Revolving Credit Commitments shall be documented by an Additional Credit Extension Amendment executed by the Persons providing the Replacement Revolving Credit Commitments (and the other Persons specified in the definition of Additional Credit Extension Amendment but no other existing Lender), and the Additional Credit Extension Amendment may provide for such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section 2.20.

ARTICLE III
TAXES, YIELD PROTECTION AND ILLEGALITY

3.01 Taxes.

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

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

(c) Indemnification by the Borrower. The Borrower shall indemnify the Administrative Agent, each Lender and the L/C Issuer, within 10 Business Days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 3.01) paid by the Administrative Agent, such Lender or the L/C Issuer, as the case may be, and, without duplication, any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender or the L/C Issuer (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender or the L/C Issuer, shall be conclusive absent manifest error. After the Administrative Agent, any Lender or the L/C Issuer (as the case may be) learns of the imposition of any Indemnified Taxes or Other Taxes, the Administrative Agent, any Lender or the L/C Issuer (as the case may be) will act in good faith to promptly notify the Borrower of its obligations hereunder; provided, however, that the failure to provide Borrower with such notice shall not release the Borrower of its indemnification obligation under this Section 3.01(c).

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

(e) Status of Lenders. Any Lender entitled to an exemption from or reduction of withholding tax with respect to payments under this Agreement shall deliver to the Borrower (and the Administrative Agent) at any time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation prescribed by applicable law or otherwise reasonably requested by the Borrower or the Administrative Agent to permit such payments to be made without such withholding Tax or at a reduced rate.

Without limiting the foregoing, each Foreign Lender shall, to the extent it is legally eligible to do so, (i) on or prior to the date it becomes a Foreign Lender, (ii) on or prior to the date on which any applicable form or certification expires or becomes obsolete or incorrect, (iii) after the occurrence of any event involving such Foreign Lender that requires a change in the most recent form or certification previously delivered by it to Borrower and the Administrative Agent, and (iv) from time to time if reasonably requested by the Borrower or the Administrative Agent, provide the Administrative Agent and the Borrower whichever of the following is applicable:

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

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

(iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under section 881(c) of the Code, (A) a certificate substantially in the form of Exhibit H (any such certificate a “United States Tax Compliance Certificate”) to the effect that such Foreign Lender is not (1) a “bank” within the meaning of section 881(c)(3)(A) of the Code, (2) a “10 percent shareholder” of the Borrower within the meaning of section 881(c)(3)(B) of the Code, (3) a “controlled foreign corporation” described in section 881(c)(3)(C) of the Code and (4) or was not engaged in a conduct of a trade or business within the United States to which the interest payment is effectively connected and (B) duly completed copies of IRS Form W-8BEN,

(iv) to the extent a Foreign Lender is not the beneficial owner (for example, where the Foreign Lender is a partnership or participating Lender granting a typical participation), a complete and executed IRS Form W-8IMY, accompanied by a Form W-8ECI, W-8BEN, a United States Tax Compliance Certificate, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that, if the Foreign Lender is a partnership (and not a participating Lender) and one or more partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender shall provide a United States Tax Compliance Certificate, on behalf of such beneficial owner(s) in lieu of requiring each beneficial owner to provide its own certificate, or

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

Without limiting the foregoing, each Lender and L/C Issuer that is a “United States person” within the meaning of Section 7701(a)(30) of the Code that lends to the Borrower (each, a “U.S. Lender”) shall deliver to the Administrative Agent and the Borrower two duly signed, properly completed copies of IRS Form W-9 on or prior to the Amendment and Restatement Effective Date (or on or prior to the date it becomes a party to this Agreement), certifying that such U.S. Lender is entitled to an exemption from United States backup withholding, or any successor form.

If a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Sections 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their FATCA obligations, to determine whether such Lender has or has not complied with such Lender’s FATCA obligations and, if necessary, to determine the amount to deduct and withhold from such payment. Solely for purposes of this paragraph “FATCA” shall include any amendments made to FATCA after the date of this Agreement.

(f) Treatment of Certain Refunds. If the Administrative Agent, any Lender or the L/C Issuer determines, in its sole discretion, which shall be applied in good faith, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by a Loan Party or with respect to which a Loan Party has paid additional amounts pursuant to this Section, it shall pay to a Loan Party an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by a Loan Party under this Section with respect to the Indemnified Taxes or Other Taxes giving rise to such refund), net of all reasonable out-of-pocket expenses of the Administrative Agent, such Lender or the L/C Issuer, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that a Loan Party, upon the request of the Administrative Agent, such Lender or the L/C Issuer, agrees to repay the amount paid over to a Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent, such Lender or the L/C Issuer if the Administrative Agent, such Lender or the L/C Issuer is required to repay such refund to such Governmental Authority. This subsection shall not be construed to require the Administrative Agent, any Lender or the L/C Issuer to make available its tax returns (or any other information relating to its taxes that it deems confidential) to a Loan Party or any other Person.

3.02 Illegality. If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to the Eurodollar Rate, or to determine or charge interest rates based upon the Eurodollar Rate, or any

Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, (i) any obligation of such Lender to make or continue Eurodollar Rate Loans or to convert Base Rate Loans to Eurodollar Rate Loans shall be suspended and (ii) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest rate on which is determined by reference to the Eurodollar Rate component of the Base Rate, the interest rate on such Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurodollar Rate component of the Base Rate, in each case until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (x) the Borrower shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all Eurodollar Rate Loans of such Lender to Base Rate Loans (the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurodollar Rate component of the Base Rate), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurodollar Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurodollar Rate Loans, and (y) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the Eurodollar Rate, the Administrative Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the Eurodollar Rate component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the Eurodollar Rate. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

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

3.04 Increased Costs; Reserves on Eurodollar Rate Loans.

(a) Increased Costs Generally. If any Change in Law shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

3.06 Mitigation Obligations; Replacement of Lenders.

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

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

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

ARTICLE IV
CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

4.01 Conditions to the Effectiveness of the Amendment and Restatement. The effectiveness of this Agreement is subject to the prior or concurrent satisfaction of the following conditions (the date on which such conditions are satisfied, the "Amendment and Restatement Effective Date"):

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

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

(ii) a Tranche A Note and/or Revolving Credit Note executed by the Borrower in favor of each Lender that has requested a Tranche A Note and/or Revolving Credit Note at least two Business Days in advance of the Amendment and Restatement Effective Date;

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

(iv) such documents and certifications as the Administrative Agent may reasonably require to evidence that each Loan Party is duly organized or formed, and that each Loan Party is validly existing and in good standing in its jurisdiction of organization;

(v) a favorable opinion of each of (1) Davis Polk & Wardwell LLP, special New York counsel to the Loan Parties, (2) Richards, Layton & Finger, P.A., special Delaware counsel to the Loan Parties, and (3) general counsel to the Loan Parties, in each case (A) dated as of the Amendment and Restatement Effective Date, (B) addressed to each L/C Issuer on the Amendment and Restatement Effective Date, the Administrative Agent and the Lenders and (C) in form and substance reasonably satisfactory to the Administrative Agent (it being agreed that opinions substantially in the form delivered on the Original Closing Date shall be deemed to be satisfactory to the Administrative Agent except that the opinion of special Delaware counsel need cover only the continued perfection of the Collateral);

(vi) a certificate signed by a Responsible Officer of the Borrower certifying that the conditions specified in clauses (a) and (b) of Section 4.02 are satisfied;

(vii) a certificate attesting to the Solvency of the Borrower and its Subsidiaries, taken as a whole, from the Borrower's chief financial officer substantially in the form delivered on the Original Closing Date; and

(viii) certified copies of UCC, tax and judgment lien searches, or equivalent reports or searches, each of a recent date listing all effective financing statements, lien notices or comparable documents that name any Loan Party as debtor and that are filed in those state and county jurisdictions in which any Loan Party is organized or maintains its principal place of business and such other searches that the Collateral Agent reasonably deems necessary.

(b) Fees and Expenses. All fees due to the Administrative Agent, the Lead Arrangers and the Lenders shall have been paid, and all expenses to be paid or reimbursed to the Administrative Agent and the Lead Arrangers that have been invoiced a reasonable period of time prior to the Amendment and Restatement Effective Date shall have been paid, in each case, from the proceeds of the initial funding under the Tranche A Term Facility, plus such additional amounts of such fees, charges and disbursements of counsel as shall constitute its reasonable estimate of such fees, charges and disbursements incurred or to be incurred by it through the Amendment and Restatement Effective Date (provided that such estimate shall not thereafter preclude a final settling of accounts between the Borrower and the Administrative Agent).

(c) USA Patriot Act. The Borrower and each of the Guarantors shall have provided the documentation and other information to the Administrative Agent and Lenders that are required by regulatory authorities under applicable "know-your-customer" rules and regulations, including the USA Patriot Act, to the extent the Borrower shall have received written requests therefor at least two (2) Business Days prior to the Amendment and Restatement Effective Date.

(d) Loan Prepayment. The Borrower shall, concurrently with the borrowing of Tranche A Term Loans, prepay all loans outstanding under the Original Credit Agreement prior to the effectiveness of this Agreement, which prepayment shall be accompanied by accrued and unpaid interest on the loans being prepaid, any accrued and unpaid commitment fees on the Revolving Credit Commitments (as defined in the Original Credit Agreement) and any breakage amounts or other amounts required to be paid in respect thereof. Such prepayment may be financed (subject to satisfaction of applicable borrowing conditions under Section 4.02) with the proceeds of the Revolving Credit Loans made after the effectiveness of this Agreement.

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

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

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

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

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

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

ARTICLE V
REPRESENTATIONS AND WARRANTIES

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

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

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

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

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

5.05 Financial Statements; No Material Adverse Effect.

(a) The Audited Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; and (ii) fairly present in all material respects the financial condition of the Borrower and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein.

(b) The unaudited financial statements of the Borrower for the fiscal quarter ended March 31, 2012 (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, and (ii) fairly present in all material respects the financial condition and results of operations of the entities to which they relate as of the dates and for the periods covered thereby, subject to the absence of footnotes and to normal year-end audit adjustments.

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

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

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

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

5.08 Ownership of Property; Liens.

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

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

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

5.09 Environmental Compliance. Except with respect to any matters that could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, none of the Loan Parties nor any of their respective Subsidiaries (a) has failed to comply

with any Environmental Law or to obtain, maintain or comply with any Environmental Permit or to provide any notification required under any Environmental Law or has become subject to any Environmental Liability or is conducting or financing any investigation, response or corrective action pursuant to any Environmental Law at any location; or (b) knows of any basis for Environmental Liability, except as disclosed on Schedule 5.09.

5.10 Insurance. The properties of the Borrower and its Subsidiaries are insured with financially sound and reputable insurance companies not Affiliates of the Borrower, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Borrower or the applicable Subsidiary operates.

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

5.12 ERISA Compliance.

(a) Except with respect to any matter that could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (i) each Plan is in compliance in all respects with the applicable provisions of ERISA, the Code and other Federal or state laws and (ii) each Pension Plan that is intended to be a qualified plan under Section 401(a) of the Code has received a favorable determination letter from the IRS to the effect that the form of such Plan is qualified under Section 401(a) of the Code and the trust related thereto has been determined by the IRS to be exempt from federal income tax under Section 501(a) of the Code, or an application for such a letter is currently being processed by the IRS with respect thereto and, to the best knowledge of the Borrower, nothing has occurred which would prevent, or cause the loss of, such tax qualified status.

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

(c) Except as would not reasonably be expected to have a Material Adverse Effect: (i) No ERISA Event has occurred, and neither the Borrower nor any ERISA Affiliate is aware of any fact, event or circumstance that could reasonably be expected to constitute or result in an ERISA Event with respect to any Pension Plan; (ii) the Borrower and each ERISA Affiliate has met all applicable requirements under the Pension Funding Rules in respect of each Pension Plan, and no waiver of the minimum funding standards under the Pension Funding Rules has been applied for or obtained; (iii) neither the Borrower nor any ERISA Affiliate has incurred any liability to the PBGC other than for the payment of premiums, and there are no premium payments which have become due that are unpaid; (iv) neither the Borrower nor any ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or Section 4212(c) of ERISA; and (v) all required minimum contributions to any Multiemployer Plan have been made.

(d) Neither the Borrower or any ERISA Affiliate maintains or contributes to, or has any unsatisfied obligation to contribute to, or liability under, any active or terminated Pension Plan other than (A) on the Amendment and Restatement Effective Date, those listed on Schedule 5.12(d) hereto and (B) thereafter, Pension Plans not otherwise prohibited by this Agreement.

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

5.14 Margin Regulations; Investment Company Act.

(a) The Borrower is not engaged and will not engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying margin stock, in each case in violation of such Regulation U.

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

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

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

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

5.18 Solvency. Immediately after consummation of the ARCA Transaction on the Amendment and Restatement Effective Date, the Loan Parties, on a consolidated basis, are Solvent.

5.19 Anti-Money Laundering and Economic Sanctions Laws.

(a) No Loan Party, none of its Subsidiaries and, to the knowledge of senior management of each Loan Party, none of its Affiliates and none of the respective officers, directors, brokers or agents of such Loan Party, such Subsidiary or Affiliate (i) has violated or is in violation of any applicable Anti-Money Laundering Law or (ii) has engaged or engages in any transaction, investment, undertaking or activity that conceals the identity, source or destination

of the proceeds from any category of offenses designated in any applicable law, regulation or other binding measure implementing the “Forty Recommendations” and “Nine Special Recommendations” published by the Organisation for Economic Co-operation and Development’s Financial Action Task Force on Money Laundering.

(b) No Loan Party, none of its Subsidiaries and, to the knowledge of senior management of each Loan Party, none of its Affiliates and none of the respective officers, directors, brokers or agents of such Loan Party, such Subsidiary or such Affiliate that is acting or benefiting in any capacity in connection with the Loans is an Embargoed Person.

(c) Except as otherwise authorized by OFAC, no Loan Party, none of its Subsidiaries and, to the knowledge of senior management of each Loan Party, none of its Affiliates and none of the respective officers, directors, brokers or agents of such Loan Party, such Subsidiary or such Affiliate acting or benefiting in any capacity in connection with the Loans (i) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Embargoed Person, (ii) deals in, or otherwise engages in any transaction related to, any property or interests in property blocked pursuant to any applicable Economic Sanctions Laws or (iii) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the applicable prohibitions set forth in any Economic Sanctions Laws.

ARTICLE VI AFFIRMATIVE COVENANTS

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

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

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

(b) as soon as available, but in any event within 45 days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower (commencing with the fiscal quarter ending June 30, 2012), a consolidated statement of financial condition of the Borrower and its Subsidiaries as at the end of such fiscal quarter, and the related consolidated statements of income and cash flows for such fiscal quarter and for the portion of the Borrower's fiscal year then ended, setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail, certified by the chief executive officer, chief financial officer, principal accounting officer, treasurer or controller of the Borrower as fairly presenting in all material respects the financial condition, results of operations and cash flows of the Borrower and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes; and

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

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

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

(a) starting with the fiscal quarter ending June 30, 2012 and concurrently with the delivery of the financial statements referred to in Sections 6.01(a) and (b), a duly completed Compliance Certificate signed by the chief executive officer, chief financial officer, principal accounting officer, treasurer or controller of the Borrower (which delivery may, unless the Administrative Agent or a Lender requests executed originals, be by electronic communication including fax or email and shall be deemed to be an original authentic counterpart thereof for all purposes);

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

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

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

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

(f) except during any Collateral Suspension Period, together with the delivery of each Compliance Certificate pursuant to Section 6.02(a) with respect to financial statements referred to in Section 6.01(a), a report supplementing Schedules I, II and VII to the Security Agreement and Schedule 5.08(c) hereto, in each case, to the extent necessary, including an identification of all owned real property Disposed of by any Loan Party, if any, or any of its Subsidiaries since the delivery of the last supplements and a list and description of all Investment Property, Equity Interests, Pledged Debt, Promissory Notes, Pledged Deposit Accounts, Pledged Securities Accounts, Letters of Credit (as such terms are defined in the Security Agreement) and Material Real Property (including the street address, county or other relevant jurisdiction, state or other relevant jurisdiction, and the record owner) acquired, if any, since the delivery of the last supplements; and

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

Documents or notices required to be delivered pursuant to Section 6.01(a) or (b), Section 6.02(a), (b), (c), (d) or (e) or Section 6.03 may be delivered electronically and, if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower posts such documents, or provides a link thereto on the Borrower's website on the Internet at the website address listed on Schedule 10.02; or (ii) on which such documents are posted on the

Borrower's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that: (i) the Borrower shall deliver paper copies of such documents to the Administrative Agent or any Lender that requests the Borrower to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (ii) the Borrower shall notify the Administrative Agent, which shall notify each Lender, (by telecopier or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. The Administrative Agent shall have no obligation to request the delivery or to maintain copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Lead Arrangers will make available to the Lenders and the L/C Issuer materials and/or information provided by or on behalf of the Borrower hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks or another similar electronic system (the "Platform") and (b) certain of the Lenders (each, a "Public Lender") may have personnel who do not wish to receive material non-public information with respect to the Borrower or its Subsidiaries, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons' securities. The Borrower hereby agrees that it will use commercially reasonable efforts to identify that portion of the Borrower Materials that may be distributed to the Public Lenders and that (w) all such Borrower Materials shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Borrower shall be deemed to have authorized the Administrative Agent, the Lead Arrangers, the L/C Issuer and the Lenders to treat such Borrower Materials as not containing any material non-public information (although it may be sensitive and proprietary) with respect to the Borrower or its securities for purposes of United States Federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 10.07); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Investor"; and (z) the Administrative Agent and the Lead Arrangers shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Investor."

6.03 Notices. Promptly notify the Administrative Agent (which shall deliver such notices to each Lender):

(a) of the occurrence of any Default;

(b) of any matter that has resulted or could reasonably be expected to result in a Material Adverse Effect, including (but in each case only to the extent the same has resulted or could reasonably be expected to result in a Material Adverse Effect) (i) breach or non-performance of, or any default under, a Contractual Obligation of the Borrower or any of its Subsidiaries; (ii) any dispute, litigation, investigation, proceeding or suspension

between the Borrower or any of its Subsidiaries and any Governmental Authority; or (iii) the commencement of, or any material development in, any litigation or proceeding affecting the Borrower or any of its Subsidiaries, including pursuant to any applicable Environmental Laws; and

(c) of the occurrence of any ERISA Event.

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

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

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

6.06 Maintenance of Properties. (a) Maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted; and (b) make all necessary repairs thereto and renewals and replacements thereof except, in each case with respect to clauses (a) and (b), where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

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

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

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

6.10 Inspection Rights.

(a) Permit representatives and independent contractors of the Administrative Agent to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers responsible for financial matters, and independent public accountants (at which authorized representatives of the Borrower shall be entitled to be present), all at the reasonable expense of the Borrower and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrower; provided that, excluding any such visits and inspections during the continuation of an Event of Default, only the Administrative Agent on behalf of the Lenders may exercise rights under this Section 6.10 and the Administrative Agent shall not exercise such rights more often than one (1) time during any calendar year absent the existence and continuance of an Event of Default; provided further that when an Event of Default exists the Administrative Agent or any Lender (or any of their respective representatives or independent contractors) may do any of the foregoing at the reasonable expense of the Borrower at any time during normal business hours.

(b) At the request of the Administrative Agent, hold at least one meeting per fiscal year (at a mutually agreeable location, venue and time or, at the option of the Borrower, by conference call, the reasonable costs of such venue or call to be paid by Borrower) with all Lenders who choose to attend such meeting, at which meeting shall be reviewed the financial results of the previous fiscal year and the financial condition of the Borrower and its Subsidiaries and the budgets presented for the current fiscal year of the Borrower and its Subsidiaries.

6.11 Use of Proceeds. Use the proceeds of the Credit Extensions (i) in the case of the Tranche A Term Loans made on the Amendment and Restatement Effective Date, together with cash on hand, to refinance all of the loans outstanding under the Original Credit Agreement immediately prior to the Amendment and Restatement Effective Date and to pay fees and expenses incurred in connection with the ARCA Transaction, (ii) in the case of Revolving Credit Loans, to provide working capital for the Borrower and its Subsidiaries and for general corporate purposes, including Permitted Acquisitions, not in contravention of any Law or of any Loan

Document, (iii) in the case of any Additional Term Loans, as specified in the Additional Credit Extension Amendment related thereto and (iv) in the case of any Refinancing Term Loan or Replacement Revolving Credit Commitments, to repay the Term Loans relating to such Refinancing Term Loan or the Revolving Credit Loans, as applicable, and pay fees and expenses in connection therewith.

6.12 Covenant to Guarantee Obligations and Give Security.

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

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

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

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

(iv) except during any Collateral Suspension Period, within 60 days after such formation or acquisition (or such longer period as the Administrative Agent shall agree in its sole discretion), cause such Subsidiary and each direct and indirect parent of such Subsidiary (if it has not already done so) to take all reasonable actions (including the recording of mortgages, the filing of UCC financing statements, the giving of notices and

the endorsement of notices on title documents) as may be necessary to vest in the Administrative Agent (or in any representative of the Administrative Agent designated by it) valid and subsisting Liens on the properties purported to be subject to the deeds of trust, trust deeds, deeds to secure debt, mortgages, Security Agreement Supplements, IP Security Agreement Supplements and security and pledge agreements delivered pursuant to this Section 6.12, enforceable against all third parties in accordance with their terms,

(v) within 60 days after such formation or acquisition (or such longer period as the Administrative Agent shall agree in its sole discretion), deliver to the Administrative Agent, upon the reasonable request of the Administrative Agent, a signed copy of a favorable opinion, addressed to the Administrative Agent and the other Lenders, of counsel for the Loan Parties reasonably acceptable to the Administrative Agent as to the matters (A) contained in clause (i) above if such formation or acquisition occurs during a Collateral Suspension Period and (B) contained in clauses (i), (iii) and (iv) above if such formation or acquisition does not occur during a Collateral Suspension Period, and, in each case, as to such other matters as the Administrative Agent may reasonably request, and

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

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

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

(ii) within 45 days after such acquisition (or such longer period as the Administrative Agent shall agree in its sole discretion), cause the applicable Loan Party to duly execute and deliver to the Administrative Agent deeds of trust, trust deeds, deeds

to secure debt, mortgages, mortgage modifications, Security Agreement Supplements, IP Security Agreement Supplements and other security and pledge agreements, substantially in the applicable form (if any) attached to the Loan Documents or otherwise in form and substance reasonably satisfactory to the Administrative Agent, securing payment of all the Obligations of the applicable Loan Party under the Loan Documents and constituting Liens on all such properties,

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

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

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

(c) Except during any Collateral Suspension Period, upon the reasonable request of the Administrative Agent following the occurrence and during the continuance of an Event of Default, the Borrower shall, at the Borrower's expense:

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

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

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

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

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

(d) Except during any Collateral Suspension Period, at any time upon reasonable request of the Administrative Agent, promptly execute and deliver any and all further instruments and documents and take all such other action as the Administrative Agent may deem necessary in obtaining the full benefits of, or (as applicable) in perfecting and preserving the Liens of, such guaranties, deeds of trust, trust deeds, deeds to secure debt, mortgages, Security Agreement Supplements, IP Security Agreement Supplements and other security and pledge agreements.

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

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

6.14 Further Assurances. Promptly upon the reasonable request by the Administrative Agent, or any Lender through the Administrative Agent, (a) correct any material defect or error that may be discovered in any Loan Document or in the execution, acknowledgment, filing or recordation thereof, and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent, or any Lender through the Administrative Agent, may reasonably require from time to time in order to (i) carry out more effectively the purposes of the Loan Documents, (ii) to the fullest extent permitted by applicable law but subject to Section 6.12(e), subject any Loan Party's properties, assets, rights or interests to the Liens now or hereafter intended to be covered by any of the Collateral Documents, (iii) perfect and maintain the validity, effectiveness and priority of any of the Collateral Documents and any of the Liens intended to be created thereunder and (iv) assure, convey, grant, assign, transfer, preserve, protect and confirm more effectively unto the Secured Parties the rights granted or now or hereafter intended to be granted to the Secured Parties under any Loan Document or under any other instrument executed in connection with any Loan Document to which any Loan Party or any of its Subsidiaries is or is to be a party, and cause each of its Subsidiaries to do so. Notwithstanding the foregoing, neither the Borrower nor any Subsidiary shall be required to comply with the provisions of clauses (b)(ii), (iii) or (iv) of this Section 6.14 during any Collateral Suspension Period.

6.15 Compliance with Terms of Leaseholds. Make all payments and otherwise perform all obligations in respect of all leases of real property to which the Borrower or any of its Subsidiaries is a party, except, in any case, where (i) any obligation thereunder is being contested in good faith and appropriate reserves are being maintained with respect thereto to the extent required by GAAP or (ii) the failure to do so, either individually or in the aggregate, could not be reasonably likely to have a Material Adverse Effect.

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

6.17 Maintenance of Ratings. Use commercially reasonable efforts to cause Borrower's corporate credit to continue to be rated by S&P and Moody's (but not to maintain a specific rating).

6.18 Collateral Suspension Period.

(a) Notwithstanding anything to the contrary contained in this Agreement, any Loan Document or any other document executed in connection herewith, if a Collateral Suspension Date occurs (including any subsequent Collateral Suspension Date after the occurrence of an immediately preceding Collateral Reinstatement Date), then the Borrower shall be entitled to require the release of any or all of the Liens granted pursuant to the Collateral Documents on the Collateral, and upon delivery to the Administrative Agent and Collateral Agent of the officer's certificate set forth in clause (iv) of the definition of "Collateral Suspension Period", such Liens shall automatically terminate. In connection with the foregoing, the Collateral Agent shall, within a reasonable period of time following the request and at the sole cost and expense of the Loan Parties, assign, transfer and deliver to the applicable Loan Parties, without recourse to or warranty by the Collateral Agent except as to the fact that the Collateral Agent has not encumbered the released assets, such of the Collateral or any part thereof to be released as may be in possession of the Collateral Agent and as shall not have been sold or otherwise applied pursuant to the terms hereof, and, with respect to any other Collateral, such documents and instruments (including UCC-3 termination financing statements or releases) as the Borrower shall reasonably request to evidence such termination and release. During any Collateral Suspension Period, the terms and conditions of the Collateral Documents, including all covenants and representations and warranties contained therein, shall not apply to the Loan Parties.

(b) Notwithstanding clause (a) above, if after any Collateral Suspension Date (i) either (x) the Borrower's corporate credit/family rating subsequently falls below BBB- (stable outlook) by S&P or Baa3 (stable outlook) by Moody's or (y) either S&P or Moody's (or a successor thereto) ceases to provide a corporate credit/family rating for the Borrower or (ii) the Borrower notifies the Administrative Agent in writing that it has elected to terminate the Collateral Suspension Period (the occurrence of any event in clause (i) or (ii), a "Collateral Reinstatement Event"), the Collateral Suspension Period with respect to such Collateral

Suspension Date shall automatically terminate and all Collateral and Collateral Documents, and all Liens granted or purported to be granted therein, released pursuant to clause (a) above shall be automatically reinstated on the same terms as of the applicable Collateral Reinstatement Date (as defined below) and the Loan Parties shall take all actions and deliver all documents (collectively, the “New Collateral Documents”) reasonably requested by the Administrative Agent as necessary to create and perfect the Liens of the Collateral Agent in such Collateral, substantially consistent with the provisions of Section 4.01(a) of the Original Credit Agreement, in form and substance reasonably satisfactory to the Administrative Agent (collectively, the “Collateral Reinstatement Requirements”), within 30 days of such Collateral Reinstatement Event in the case of any Collateral Reinstatement Requirements consisting of delivery of a new security agreement and UCC-1 financing statements and within 60 days of such Collateral Reinstatement Event, as applicable, in the case of all other Collateral Reinstatement Requirements (or, in each case, such longer period as the Administrative Agent may agree in its discretion) (the first date on which a new security agreement is required to be delivered pursuant to the foregoing, the “Collateral Reinstatement Date”). The Collateral Agent is hereby authorized to enter into any New Collateral Documents in connection with any Collateral Reinstatement Event.

ARTICLE VII
NEGATIVE COVENANTS

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

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

(a) Liens (x) granted pursuant to any Loan Document in favor of the Collateral Agent for the benefit of the Secured Parties to secure all of the Obligations or (y) granted in favor of any L/C Issuer to collateralize any Defaulting Lender’s participation in Obligations hereunder;

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

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

(d) landlords', carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business securing obligations which are not overdue for a period of more than 60 days or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person to the extent required under GAAP;

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

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

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

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

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

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

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

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

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

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

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

(p) Liens attaching to cash earnest money deposits in connection with any letter of intent or purchase agreement permitted hereunder and Liens on cash deposits held in escrow accounts pursuant to the terms of any purchase agreement permitted hereunder;

(q) Liens in the nature of trustee's Liens granted pursuant to any indenture governing any Indebtedness for borrowed money permitted by Section 7.02, in each case in favor of the trustee under such indenture and securing only obligations to pay compensation to such trustee, to reimburse its expenses and to indemnify it under the terms thereof;

(r) Liens on assets of Foreign Subsidiaries securing obligations of such Foreign Subsidiaries permitted hereunder;

(s) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(t) assignments of accounts or other rights to receive income to the extent permitted under Section 7.05;

(u) escrow deposits of source code in the ordinary course of business in connection with the licensing of intellectual property by the Borrower or any of its Subsidiaries to their customers;

(v) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sales of goods entered into by the Borrower or its Subsidiaries in the ordinary course of business;

(w) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods; and

(x) other Liens so long as the aggregate outstanding amount of Indebtedness and other obligations secured thereby does not exceed \$25,000,000.

7.02 Indebtedness. Create, incur, assume or suffer to exist any Indebtedness, except:

(a) obligations (contingent or otherwise) existing or arising under any Swap Contract, provided that such obligations are (or were) entered into by such Person in the ordinary course of business or pursuant to Section 6.16 of the Original Credit Agreement (and not for speculative purposes) for the purpose of directly mitigating risks associated with fluctuations in interest rates, commodity prices or foreign exchange rates;

(b) Indebtedness of a Subsidiary of the Borrower owed to the Borrower or another Subsidiary of the Borrower or of the Borrower owed to a Subsidiary of the Borrower, which Indebtedness shall (i) in the case of Indebtedness owed to a Loan Party, constitute "Pledged Debt" under the Security Agreement, (ii) in the case of Indebtedness owed by a Loan Party to a non-Loan Party, be subordinated to the Obligations on terms reasonably acceptable to the Administrative Agent and (iii) be otherwise permitted under the provisions of Section 7.03;

(c) Indebtedness under the Loan Documents (including any such Indebtedness incurred pursuant to Section 2.14, 2.18, 2.19 or 2.20);

(d) Indebtedness outstanding on the Original Closing Date and listed on Schedule 7.02 and any Permitted Refinancing thereof;

(e) (i) Guarantees of any Loan Party in respect of Indebtedness otherwise permitted hereunder of the Borrower or any Subsidiary; provided that if the Indebtedness being Guaranteed is subordinated to the Obligations, such Guarantee shall be subordinated to the Guarantee of the Obligations on terms at least as favorable to the Lenders as those contained in the subordination provisions of such Indebtedness, and (ii) Guarantees of any Subsidiary that is not a Loan Party in respect of Indebtedness otherwise permitted hereunder of any Subsidiary that is not a Loan Party;

(f) Indebtedness in respect of Capitalized Leases, Synthetic Lease Obligations and purchase money obligations for fixed or capital assets within the limitations set forth in Section 7.01(i) and any Synthetic Debt, and any Permitted Refinancing thereof; provided, however, that the aggregate amount of all such Indebtedness at any one time outstanding shall not exceed \$25,000,000;

(g) Indebtedness of any Person that becomes a Subsidiary of the Borrower after the Original Closing Date in accordance with the terms of Section 7.03, which Indebtedness is existing at the time such Person becomes a Subsidiary of the Borrower and was not incurred solely in contemplation of such Person's becoming a Subsidiary of the Borrower, and any Permitted Refinancing thereof;

(h) Indebtedness representing deferred compensation to employees of the Borrower or any of its Subsidiaries incurred in the ordinary course of business;

(i) Indebtedness consisting of deferred purchase price or notes issued to current or former officers, managers, consultants, directors and employees (or their respective estates, spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees) to finance the purchase or redemption of Equity Interests of the Borrower in an aggregate principal amount not to exceed \$5,000,000;

(j) unsecured Indebtedness in an aggregate principal amount not to exceed \$250,000,000 at any time outstanding;

(k) Indebtedness in respect of (i) performance bonds, bid bonds, surety bonds, workers' compensation claims, performance and completion guarantees and similar obligations, in each case provided in the ordinary course of business, and (ii) appeal bonds;

(l) Obligations under any Cash Management Agreement, and Indebtedness consisting of netting arrangements and overdraft protections, incurred in the ordinary course of business;

(m) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn against insufficient funds in the ordinary course of business; provided that such Indebtedness is promptly covered by the Borrower or any Subsidiary;

(n) Indebtedness of Foreign Subsidiaries in an aggregate principal amount not exceeding \$100,000,000 at any time outstanding;

(o) Indebtedness incurred by the Borrower or any of its Subsidiaries in a Permitted Acquisition or any other Investment expressly permitted hereunder, in each case to the extent constituting indemnification obligations, incentive, non-compete or other similar arrangements, or obligations in respect of purchase price (including earn-outs) or other similar adjustments;

(p) Indebtedness of any Loan Party or other Subsidiary of the Borrower on account of or in respect of letters of credit obtained in the ordinary course of business in connection with foreign operations or branches in an aggregate principal amount not exceeding \$10,000,000 at any time outstanding;

(q) Indebtedness owing to any insurance company in connection with the financing of any insurance premiums permitted by such insurance company in the ordinary course of business;

(r) (x) unsecured Indebtedness of the Borrower so long as the Net Cash Proceeds thereof are used to fund Permitted Acquisitions, and any Permitted Refinancing thereof, and (y) guarantees by the Guarantors of the Indebtedness of the Borrower incurred pursuant to clause (x); provided that (i) no Default shall exist immediately prior to or immediately after such incurrence and (ii) such Indebtedness shall (A) require no amortization payments, and shall not have a scheduled maturity, prior to the date that is 180 days following the Latest Maturity Date; (B) not have covenants or events of default that, taken as a whole, are more restrictive than the covenants and events of default included in this Agreement (as determined in good faith by the Borrower), or shall have such covenants and events of default as are otherwise reasonably satisfactory to the Administrative Agent, (C) not include any mandatory prepayment, redemption or repurchase provisions (other than provisions requiring offers to purchase upon asset sales, casualty events, condemnation events and change of control, and acceleration provisions, in each case, that are customary for high yield debt securities (as determined in good faith by the Borrower) and are subject to, if appropriate, reinvestment of the proceeds in the business or prior payment of the Obligations under the Loan Documents) that would apply prior to the date that is 180 days following the Latest Maturity Date at the time of incurrence, or shall have such mandatory prepayment, redemption or repurchase provisions as are otherwise reasonably acceptable to the Administrative Agent and (D) not include any financial maintenance covenants;

(s) (x) unsecured Indebtedness of the Borrower so long as the Net Cash Proceeds thereof are used to prepay the Term Loans in accordance with Sections 2.05(b)(iii) and (iv), and any Permitted Refinancing thereof, and (y) guarantees by the Guarantors of the Indebtedness of the Borrower incurred pursuant to clause (x); provided that (i) no Default shall exist immediately prior to or immediately after such incurrence and (ii) such Indebtedness shall (A) require no amortization payments, and shall not have a scheduled maturity, prior to the date that is 180 days following the Latest Maturity Date; (B) not have covenants or events of default that, taken as a whole, are more restrictive than the covenants and events of default included in this Agreement (as determined in good faith by the Borrower), or shall have such covenants and events of default as are otherwise reasonably satisfactory to the Administrative Agent, (C) not include any mandatory prepayment, redemption or repurchase provisions (other than provisions requiring offers to purchase upon asset sales, casualty events, condemnation events and change of control, and acceleration provisions, in each case, that are customary for high yield debt securities (as determined in good faith by the Borrower) and are subject to, if appropriate, reinvestment of the proceeds in the business or prior payment of the Obligations under the Loan Documents) that would apply prior to the date that is 180 days following the Latest Maturity Date at the time of incurrence, or shall have such mandatory prepayment, redemption or repurchase provisions as are otherwise reasonably acceptable to the Administrative Agent and (D) not include any financial maintenance covenants;

(t) Indebtedness incurred by the Borrower or any of its Subsidiaries constituting reimbursement obligations with respect to letters of credit, bank guarantees or similar instruments issued in respect of workers' compensation claims, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance or other Indebtedness with respect to similar reimbursement-type obligations; provided that upon the drawing of such instruments, such obligations are reimbursed within 30 days following such drawing; and

(u) other Indebtedness in an aggregate principal amount not to exceed \$5,000,000 at any time outstanding.

It is understood and agreed that any Indebtedness borrowed in a foreign currency shall continue to be permitted under this Section 7.02 notwithstanding any fluctuation in the Dollar amount of such Indebtedness, as long as the outstanding principal balance of such Indebtedness (denominated in its original currency) does not exceed the maximum amount of such Indebtedness (denominated in such currency) permitted to be outstanding on the date such Indebtedness was incurred.

7.03 Investments. Make or hold any Investments, except:

(a) Investments held by the Borrower and its Subsidiaries in the form of Cash Equivalents;

(b) advances to officers, directors and employees of the Borrower and Subsidiaries in an aggregate amount not to exceed \$4,000,000 at any time outstanding, for travel, entertainment, relocation and analogous ordinary business purposes;

(c) (i) Investments by the Borrower and its Subsidiaries in Loan Parties, (ii) Investments by Subsidiaries of the Borrower that are not Loan Parties in other Subsidiaries that are not Loan Parties and (iii) so long as no Event of Default has occurred and is continuing at the time of or would result from such Investment, additional Investments by the Loan Parties in Subsidiaries that are not Loan Parties in an aggregate amount not to exceed \$40,000,000 at any time outstanding;

(d) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof in connection with the settlement of delinquent accounts generated in the ordinary course of business or from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss;

(e) Guarantees permitted by Section 7.02 and Guarantees of obligations (other than Indebtedness) of the Borrower and its Subsidiaries not prohibited hereunder and entered into in the ordinary course of business;

(f) (i) Investments existing on the Original Closing Date and set forth on Schedule 5.13 and (ii) Investments pursuant to any cash management arrangements with Morgan Stanley or any of its Affiliates (other than the Borrower and its Subsidiaries) in a manner consistent with past practices;

(g) Investments in Swap Contracts permitted under Section 7.02(a);

(h) the purchase or other acquisition of Equity Interests in, or all or substantially all of the assets or business of, any Person, or of assets constituting a business unit, a line of business or division of, such Person that, upon the consummation thereof, will be a Subsidiary of the Borrower or will be owned by the Borrower or a Subsidiary of the Borrower (including as a result of a merger or consolidation); provided that, with respect to each purchase or other acquisition made pursuant to this Section 7.03(h) (each of the foregoing, a “Permitted Acquisition”):

(i) any such newly-created or acquired Subsidiary and each applicable Loan Party shall comply, to the extent required, with the requirements of Section 6.12;

(ii) such purchase or other acquisition shall not include or result in any contingent liabilities that could reasonably be expected to have a Material Adverse Effect on the Borrower and its Subsidiaries, taken as a whole (as determined in good faith by the board of directors (or the persons performing similar functions) of the Borrower if the board of directors is otherwise approving such transaction and, in each other case, by a Responsible Officer of the Borrower);

(iii) the total consideration and all assumptions of debt in connection therewith (but excluding the portion paid with Qualified Equity Interests of the Borrower or Equity Net Cash Proceeds from issuance of Qualified Equity Interests of the Borrower that are Not Otherwise Applied) paid by or on behalf of a Loan Party for all such purchases or acquisitions pursuant to this Section 7.03(h) attributable to acquisitions of Persons that do not become Guarantors or of assets by Subsidiaries that are not or do not become Guarantors (including as a result of a merger or consolidation) shall not exceed \$500,000,000 in the aggregate in any fiscal year of the Borrower;

(iv) (A) immediately before and immediately after giving pro forma effect to any such purchase or other acquisition, no Default shall have occurred and be continuing and (B) immediately after giving effect to such purchase or other acquisition, the Borrower and its Subsidiaries shall, on a Pro Forma Basis, be in compliance with all of the covenants set forth in Section 7.11; and

(v) the Borrower shall have delivered to the Administrative Agent, on behalf of the Lenders, at least five Business Days (or a shorter period reasonably approved by the Administrative Agent) prior to the date on which any such purchase or other acquisition is to be consummated, a certificate of a Responsible Officer, in form and substance reasonably satisfactory to the Administrative Agent, certifying that all of the requirements set forth in this Section 7.03(h) have been satisfied or will be satisfied on or prior to the consummation of such purchase or other acquisition (or, in the case of the requirements of clause (i), will, to the extent applicable, be satisfied within the time periods specified for such satisfaction in Section 6.12);

(i) other Investments (including joint venture and minority investments) not exceeding \$20,000,000 in the aggregate in any fiscal year of the Borrower;

(j) advances of payroll payments to employees in the ordinary course of the business;

(k) loans to directors, officers and employees to purchase Qualified Equity Interests of the Borrower in an aggregate principal amount not to exceed \$7,500,000 at any time outstanding;

(l) so long as no Default or Event of Default shall have occurred and be continuing or would result therefrom, other Investments in an amount up to the Cumulative Retained Excess Cash Flow;

(m) Investments (A) received in satisfaction or partial satisfaction of accounts from financially troubled account debtors (whether in connection with a foreclosure, bankruptcy, workout or otherwise) and (B) consisting of deposits, prepayments and other credits to suppliers made in the ordinary course of business consistent with the past practices of the Borrower and its Subsidiaries;

(n) the Borrower and its Subsidiaries may (A) acquire and hold accounts receivable owing to any of them if created or acquired in the ordinary course of business and payable or dischargeable in accordance with customary terms, (B) endorse negotiable instruments held for collection or deposit in the ordinary course of business, (C) make lease, utility and other similar deposits (or prepayment thereof) in the ordinary course of business and (D) make pledges and deposits permitted by Section 7.01;

(o) Investments made as a result of the receipt of non-cash consideration from a sale, transfer or other disposition of any asset in compliance with Section 7.05;

(p) Investments of any Person existing at the time such Person becomes a Subsidiary of the Borrower or consolidates or merges with the Borrower or any of the Subsidiaries (including in connection with a Permitted Acquisition) so long as such investments were not made in contemplation of such Person becoming a Subsidiary or of such consolidation or merger;

(q) Investments to the extent that payment for such investments is made solely with Qualified Equity Interests of the Borrower (or Equity Net Cash Proceeds of the issuance thereof that are Not Otherwise Applied);

(r) Investments consisting of any amounts paid pursuant to any contracts with any Subsidiary, or in respect of any Foreign Subsidiary's operations, providing for payment of amounts on a "cost" or "cost-plus" basis for services performed, or in the form of guarantees of leases or licenses in the ordinary course of business; and

(s) Investments in a Foreign Subsidiary by a Loan Party consisting of the contribution or sale of the Equity Interests of a Foreign Subsidiary or the assets of any foreign branch, in either case, in connection with a restructuring (a “Specified Restructuring”) that is undertaken in good faith (as certified by a Responsible Officer of the Borrower in an officer’s certificate) for the principal purposes of improving the consolidated tax efficiency of the Borrower and its Subsidiaries and not for the purpose of (1) circumventing any covenant set forth in this Agreement or (2) reducing the Collateral securing the Obligations (it being understood that the certification in clause (2) shall not be required if a Collateral Suspension Period shall then be in effect).

7.04 Fundamental Changes. Merge, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except that, so long as no Event of Default exists or would result therefrom:

(a) any Subsidiary may merge or consolidate with or into or may liquidate into (i) the Borrower, provided that the Borrower shall be the continuing or surviving Person, or (ii) any one or more other Subsidiaries, provided that when any Loan Party is merging or consolidating with or liquidating into another Subsidiary, a Loan Party shall be the continuing or surviving Person;

(b) any Loan Party (other than the Borrower) may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to (i) any other Loan Party or (ii) any Subsidiary that is not a Loan Party in connection with an Investment permitted under Section 7.03;

(c) any Subsidiary that is not a Loan Party may dispose of all or substantially all its assets (including any Disposition that is in the nature of a liquidation) to (i) another Subsidiary that is not a Loan Party or (ii) to a Loan Party;

(d) in connection with any acquisition permitted under Section 7.03, any Subsidiary of the Borrower may merge into or consolidate with any other Person or permit any other Person to merge into or consolidate with it; provided that (i) if the Subsidiary party to such merger or consolidation was, immediately prior thereto, a wholly owned Subsidiary of the Borrower, the Person surviving such merger shall be a wholly-owned Subsidiary of the Borrower (it being agreed, however, that this proviso shall not prevent any transaction contemplated by Section 7.03(h)(iii)) and (ii) in the case of any such merger to which any Loan Party (other than the Borrower) is a party, such Loan Party is the surviving Person;

(e) in the case of any Subsidiary of the Borrower, pursuant to a transaction otherwise permitted by Section 7.05 (other than Section 7.05(e)); and

(f) any Subsidiary may liquidate or dissolve if the Borrower determines in good faith that such liquidation or dissolution is in the best interests of the Borrower and is not materially disadvantageous to the Lenders.

7.05 Dispositions. Make any Disposition, except:

(a) Dispositions of obsolete, excess or worn out property or property no longer used in the business of the Borrower or its Subsidiaries, whether now owned or hereafter acquired, in the ordinary course of business;

(b) Dispositions of inventory or products in the ordinary course of business and the granting of any option or other right to purchase, lease or otherwise acquire inventory or products in the ordinary course of business;

(c) Dispositions of equipment or real property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such Disposition are reasonably promptly applied to the purchase price of such replacement property;

(d) Dispositions of property to the Borrower or any of its Subsidiaries; provided that if the transferor of such property is a Loan Party, the transferee thereof must be a Loan Party;

(e) Dispositions permitted by Section 7.04;

(f) Dispositions by the Borrower and its Subsidiaries of property pursuant to sale-leaseback transactions, provided that the book value of all property so Disposed of shall not exceed (i) \$25,000,000 from and after the Amendment and Restatement Effective Date or (ii) \$5,000,000 in any fiscal year;

(g) leases, subleases, licenses or sublicenses of real or personal property in the ordinary course of business, in each case that do not materially interfere with the business of the Borrower and its Subsidiaries;

(h) additional Dispositions by the Borrower and its Subsidiaries; provided that (i) at the time of such Disposition, no Event of Default shall exist or would result from such Disposition, (ii) the aggregate fair market value of all property Disposed of in reliance on this clause (h) since the Amendment and Restatement Effective Date shall not exceed \$150,000,000 and (iii) the Borrower or such Subsidiary shall receive not less than 75% of the consideration in such Disposition in the form of cash and Cash Equivalents;

(i) so long as no Event of Default shall occur and be continuing, the grant of any option or other right to purchase any asset in a transaction that would be permitted under the provisions of Section 7.05(h);

(j) Disposition of Cash Equivalents;

(k) Disposition of Qualified Equity Interests of the Borrower otherwise permitted hereunder;

(l) discounts or forgiveness of accounts receivable in the ordinary course of business and/or sales thereof in connection with collection or compromise thereof;

(m) cancellations of any intercompany Indebtedness among the Loan Parties or among the non-Loan Parties;

(n) subject to the provisions in the Security Agreement (unless a Collateral Suspension Period is then in effect), Dispositions in the ordinary course of business consisting of the abandonment of intellectual property rights (other than any Material Intellectual Property) which, in the good faith determination of the Borrower, are not material to the conduct of the business of the Borrower and its Subsidiaries;

(o) to the extent required by applicable law, the sale or other disposition of a nominal amount of Equity Interests in any Foreign Subsidiary in order to qualify members of the board of directors or equivalent governing body of such Person;

(p) transfer of property subject to Casualty Events upon receipt of the Net Cash Proceeds of such Casualty Event;

(q) dispositions of Investments in joint ventures to the extent required by, or made pursuant to customary buy/sell arrangements between, the joint venture parties set forth in joint venture arrangements and similar binding arrangements;

(r) Investments permitted by Section 7.03 and Restricted Payments permitted under Section 7.06;

(s) Disposition of Subsidiaries of the Borrower listed in Schedule 7.05 and/or assets of any of the foregoing; and

(t) additional Dispositions by the Borrower and its Subsidiaries; provided that (i) at the time of such Disposition, no Event of Default shall exist or would result from such Disposition, (ii) the Borrower or such Subsidiary shall receive not less than 75% of the consideration in such Disposition in the form of cash and Cash Equivalents and (iii) the Borrower shall prepay the Facilities in accordance with Section 2.05(b)(ii) with the Net Cash Proceeds thereof

; provided, however, that (x) any Disposition pursuant to Section 7.05 (except pursuant to Sections 7.05(e), (l), (m), (n), (o), (p), (r), (s) and (t) and except for any Disposition made from a Loan Party to another Loan Party or from a non-Loan Party to another non-Loan Party) shall be for fair market value and (y) a transaction may utilize a combination of the exceptions in Sections 7.05(h) and (t).

7.06 Restricted Payments. Declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except that:

(a) each Subsidiary may make Restricted Payments to any Loan Party, and any other Person that owns a direct Equity Interest in such Subsidiary, ratably according to their respective holdings of the type of Equity Interest in respect of which such Restricted Payment is being made;

(b) any Loan Party may make Restricted Payments to, or issue or sell any Equity Interests to, or accept any capital contribution from, any other Loan Party;

(c) the Borrower and each Subsidiary may declare and make dividend payments or other distributions payable solely in the common stock or other common Equity Interests of such Person;

(d) the Borrower and each Subsidiary may purchase, redeem or otherwise acquire its Qualified Equity Interests with the proceeds received from the substantially concurrent issue of new Qualified Equity Interests;

(e) the Borrower may repurchase its Equity Interests from current or former directors, officers or employees of the Borrower or any of its Subsidiaries, their estates, spouses or former spouses or make payments to such persons upon termination of employment or directorship, in connection with stock options, stock appreciation rights or other equity or equity-based incentives pursuant to incentive plans or in connection with the death or disability of such persons in an aggregate amount not to exceed \$5,000,000 in any fiscal year;

(f) the Borrower may repurchase, cancel or withhold Equity Interests to the extent (x) such repurchase is deemed to occur upon or in connection with the exercise or vesting of any options, warrants or other equity awards and (y) such Equity Interests (i) represent a portion of the purchase price of such options, warrants or other equity awards or (ii) are repurchased, cancelled or withheld to facilitate the satisfaction of any tax liabilities incurred upon or in connection with the exercise or vesting of any options, warrants or other equity awards;

(g) the Borrower may make cash payments in lieu of issuing fractional or "odd lot" Equity Interests in connection with Permitted Acquisitions; and

(h) in addition to the foregoing Restricted Payments, so long as no Default or Event of Default shall have occurred and be continuing or would result therefrom, the Borrower may make additional Restricted Payments in an aggregate amount not to exceed \$50,000,000 since the Amendment and Restatement Effective Date; provided that such amount may be increased by the amount of Cumulative Retained Excess Cash Flow.

7.07 Change in Nature of Business. Engage in any material line of business substantially different from those lines of business conducted by the Borrower and its Subsidiaries on the Amendment and Restatement Effective Date or any business substantially related, incidental or complementary thereto.

7.08 Transactions with Affiliates. Enter into any transaction of any kind with any Affiliate of the Borrower, whether or not in the ordinary course of business, other than on fair and reasonable terms substantially as favorable to the Borrower or such Subsidiary as would be obtainable by the Borrower or such Subsidiary at the time in a comparable arm's length transaction with a Person other than an Affiliate; provided that the foregoing restriction shall not apply to

(i) Restricted Payments permitted to be made pursuant to Section 7.06 and Investments

permitted under Section 7.03 and intercompany transactions, including intercompany Indebtedness and asset transfers, expressly permitted hereunder, (ii) customary directors' fees and expenses, (iii) employment agreements, employee benefit and compensation plans, as determined in good faith by the board of directors or senior management of the Borrower, (iv) payments under customary officers' and directors' indemnification arrangements, (v) any tax sharing agreements or arrangements among Loan Parties and other Domestic Subsidiaries entered into in the ordinary course of business or with Morgan Stanley or its Affiliates (other than the Borrower and its Subsidiaries), and any payments in connection therewith or (vi) transactions in which the Borrower or any Subsidiary delivers to the Administrative Agent a letter from an accounting, appraisal or investment banking firm of national standing stating that such transaction is fair to the Borrower or such Subsidiary from a financial point of view and which are approved by a majority of the disinterested members of the board of directors of the Borrower in good faith.

7.09 Burdensome Agreements. Enter into or permit to exist any Contractual Obligation (other than this Agreement or any other Loan Document) that (a) limits the ability (i) of any Subsidiary to make Restricted Payments to any Loan Party or to otherwise transfer property to or invest in any Loan Party, except for any agreement in effect (A) on the Original Closing Date and set forth on Schedule 7.09 or (B) at the time any Subsidiary becomes a Subsidiary of the Borrower, so long as such agreement was not entered into solely in contemplation of such Person becoming a Subsidiary of the Borrower, (ii) of any Material Domestic Subsidiary to Guarantee the Obligations hereunder or (iii) of the Borrower or any other Loan Party to create, incur, assume or suffer to exist Liens on property of such Person securing the Obligations hereunder; provided, however, that this clause (iii) shall not prohibit any negative pledge or restriction incurred or provided in favor of any holder of any secured Indebtedness permitted under Section 7.02 solely to the extent any such negative pledge or restriction relates to the property financed by or the subject of such Indebtedness; or (b) requires the grant by a Loan Party of a Lien to secure an obligation of such Person if a Lien is granted to secure the Obligations hereunder or refinancings hereof; provided, however, that the foregoing shall not apply to Contractual Obligations which (A) are customary provisions in joint venture agreements and other similar agreements applicable to joint ventures permitted under Section 7.03 and applicable solely to such joint venture, (B) are customary restrictions on leases, subleases, licenses or sublicenses otherwise permitted hereunder so long as such restrictions relate solely to the assets subject thereto, (C) are customary anti-assignment provisions in contracts restricting the assignment of any agreement entered into in the ordinary course of business, (D) are customary restrictions in contracts for the Disposition of any assets or any Subsidiary permitted by Section 7.05, provided that the restrictions in any such contracts shall apply only to such assets or Subsidiary that is to be Disposed of, (E) are customary provisions in leases of real property that prohibit mortgages or pledges of the lessee's interest under such lease, (F) are limitations imposed on any Subsidiary that is not a Loan Party by the terms of any Indebtedness permitted hereunder if such limitation applies only to the assets or property of such Subsidiary securing such Indebtedness, (G) are in effect at the time any Person becomes a Subsidiary and not created in anticipation thereof, (H) (x) exist on the Original Closing Date and are identified on Schedule 7.09 and (y) to the extent Contractual Obligations permitted by clause (x) are set forth in an agreement evidencing Indebtedness, are set forth in any agreement evidencing any permitted renewal, extension or refinancing of such Indebtedness so long as such

renewal, extension or refinancing does not expand the scope of such Contractual Obligations, (I) are restrictions contained in the terms of any Indebtedness permitted hereunder or any agreement pursuant to which such Indebtedness was issued if (x) such restriction applies only in the event of a payment default or a default with respect to a financial covenant contained in such Indebtedness or agreement (but shall not prohibit the prior Lien securing the Obligations other than during a Collateral Suspension Period) or such restriction is not more restrictive as to any Subsidiary than the restrictions applicable to such Subsidiary contained in this Agreement and (y) the Borrower determines that any such restriction will not materially affect the Borrower's ability to make principal or interest payments on the Loans, (J) are provisions imposed by any instrument or agreement governing Indebtedness of any Subsidiary that is not a Loan Party which is permitted by Section 7.02 or (K) arise under applicable law.

7.10 Use of Proceeds. Use the proceeds of any Credit Extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the FRB) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose, in each case, in violation of such Regulation U of the FRB.

7.11 Financial Covenants.

(a) Consolidated Interest Coverage Ratio. Permit the Consolidated Interest Coverage Ratio as of the end of any fiscal quarter of the Borrower to be less than 5.00:1.00.

(b) Consolidated Leverage Ratio. Permit the Consolidated Leverage Ratio as of the end of any fiscal quarter of the Borrower to be greater than 3.25:1.00.

7.12 Capital Expenditures. Make any Capital Expenditure, except for Capital Expenditures not exceeding, in the aggregate for the Borrower and its Subsidiaries during each fiscal year set forth below, the amount set forth opposite such fiscal year:

	Amount
Fiscal Year Ending December 31, 2012	\$65,000,000
Fiscal Year Ending December 31, 2013	\$70,000,000
Fiscal Year Ending December 31, 2014	\$75,000,000
Fiscal Year Ending December 31, 2015	\$80,000,000
Fiscal Year Ending December 31, 2016	\$85,000,000
Fiscal Year Ending December 31, 2017	\$90,000,000

; provided, however, that any portion of any amount set forth above, if not expended in the fiscal year for which it is permitted above, may be carried over for expenditure in the immediately following fiscal year; and provided further that if any such amount is so carried over, it will be deemed used in the applicable subsequent fiscal year before the amount set forth opposite such fiscal year above. In addition to the foregoing Capital Expenditures, the Borrower and its Subsidiaries may make additional Capital Expenditures in an aggregate amount up to the Cumulative Retained Excess Cash Flow. For any fiscal year during which (x) a Permitted Acquisition is consummated or (y) an Investment pursuant to Sections 7.03(i), (l) or (q) is consummated, in the case of this clause (y), to the extent the Equity Interests in, or all or

substantially all of the assets or business of, any Person or of assets constituting a business unit, a line of business or division of such Person is acquired, and for each fiscal year thereafter, the amount available for Capital Expenditures otherwise permitted under this Section shall increase by an amount equal to the amount of Capital Expenditures made by the acquired person or business for the 12-month period immediately preceding such Permitted Acquisition or Investment.

7.13 Amendments of Organization Documents and Indebtedness. Amend any of its Organization Documents or amend, modify or change in any manner any term or condition of any Indebtedness set forth in Schedule 7.02 the outstanding principal amount of which exceeds the Threshold Amount, except for any refinancing, refunding, renewal or extension thereof permitted by Section 7.02(d), in each case in a manner materially adverse to the Lenders or the Administrative Agent.

7.14 Accounting Changes. Make (a) any change in accounting policies or reporting practices, except as required or permitted by GAAP or otherwise not materially adverse to the Lenders, or (b) any change to its fiscal year.

7.15 Prepayments, Etc. of Indebtedness. Prepay, redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof in any manner, or make any payment in violation of any subordination terms of, any subordinated Indebtedness or any Indebtedness incurred pursuant to Section 7.02(j) or (s), except (a) in connection with any Permitted Refinancing thereof that is expressly permitted to be incurred pursuant to Section 7.02, (b) the conversion of any such Indebtedness to Equity Interests (other than Disqualified Equity Interests), (c) with respect to intercompany subordinated Indebtedness, to the extent consistent with the terms thereof, (d) payments of regularly scheduled principal and interest, (e) any purchases of Indebtedness pursuant to offers to purchase required with proceeds of asset sales, casualty events or condemnation events or upon a change of control, which provisions are customary for high yield debt securities (as determined in good faith by the Borrower); *provided* that the Borrower shall have first complied with the mandatory prepayment provisions hereunder in connection with such asset sales, casualty events and condemnation event or obtained a waiver hereunder in connection with such change of control, as the case may be, and (f) so long as no Default or Event of Default shall have occurred and be continuing or would result therefrom, prepayments, redemption, purchases, defeasances or other satisfaction in an aggregate principal amount not to exceed the sum of (A) Cumulative Retained Excess Cash Flow, (B) the Equity Net Cash Proceeds from the sale or issuance of Qualified Equity Interests of the Borrower that are Not Otherwise Applied and (C) \$10,000,000.

7.16 Equity Interests of Wholly-Owned Subsidiaries. Permit any wholly owned Subsidiary to become a non-wholly owned Subsidiary, except (i) as a result of or in connection with a dissolution, liquidation, merger, consolidation, amalgamation or disposition of a Subsidiary permitted by Section 7.04 or 7.05 or an Investment permitted by Section 7.03, (ii) so long as such Subsidiary continues to be a Guarantor or (iii) as a result of any sale or issuance of Equity Interests of any Foreign Subsidiary otherwise permitted hereunder.

ARTICLE VIII
EVENTS OF DEFAULT AND REMEDIES

8.01 Events of Default. Any of the following shall constitute an Event of Default:

(a) Non-Payment. The Borrower or any other Loan Party fails to (i) pay when and as required to be paid herein, any amount of principal of any Loan or any L/C Obligation, or (ii) pay within three Business Days after the same becomes due, any interest on any Loan or on any L/C Obligation, any fee due hereunder or any other amount payable hereunder or under any other Loan Document or deposit any funds as Cash Collateral in respect of L/C Obligations; or

(b) Specific Covenants. The Borrower fails to perform or observe any term, covenant or agreement contained in any of Sections 6.03(a), 6.05(a) (with respect to the Borrower only), 6.12, or Article VII; or

(c) Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in Sections 8.01(a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for 30 days after notice thereof shall have been given to the Borrower by the Administrative Agent or the Required Lenders; or

(d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of the Borrower or any other Loan Party herein, in any other Loan Document, or in any document delivered in connection herewith or therewith shall be incorrect or misleading in any material respect when made or deemed made; or

(e) Cross-Default. (i) Any Loan Party or any Subsidiary thereof (A) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) and such payment is not made within any applicable grace period in respect of any Indebtedness (other than Indebtedness hereunder and Indebtedness under Swap Contracts) having an aggregate principal amount of more than the Threshold Amount, or (B) fails to observe or perform any other agreement or condition relating to any such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause after giving effect to any applicable grace period, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity, provided that this clause (i)(B) shall not apply to secured Indebtedness of a Loan Party or a Subsidiary that becomes due upon the sale or transfer by such Loan Party or Subsidiary of the property or assets securing such Indebtedness, if such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness, or unsecured Indebtedness of a Loan Party

or a Subsidiary that does not become due but contains an obligation to offer to purchase such Indebtedness following an asset sale in the event the proceeds of such sale are not reinvested in the business or used to repay a category of Indebtedness that includes the Loans (it being understood that this clause (i)(B) shall apply if such offer to purchase is actually made or required to be made); or (ii) there occurs under any Swap Contract an Early Termination Date (as defined in such Swap Contract) resulting from (A) any event of default under such Swap Contract as to which a Loan Party or any Subsidiary thereof is the Defaulting Party (as defined in such Swap Contract) or (B) any Termination Event (as so defined) under such Swap Contract as to which a Loan Party or any Subsidiary thereof is an Affected Party (as so defined) and, in either event, the Swap Termination Value owed by such Loan Party or such Subsidiary as a result thereof is greater than the Threshold Amount; or

(f) Insolvency Proceedings, Etc. Any Loan Party or any Subsidiary (other than an Immaterial Subsidiary) thereof institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for 60 calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for 60 calendar days, or an order for relief is entered in any such proceeding; or

(g) Inability to Pay Debts; Attachment. (i) Any Loan Party or any Subsidiary thereof becomes unable or admits in writing its inability or fails generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any such Person and is not released, vacated or fully bonded within 30 days after its issue or levy; or

(h) Judgments. There is entered against any Loan Party or any Subsidiary thereof (i) one or more final judgments or orders for the payment of money in an aggregate amount (as to all such judgments and orders) exceeding the Threshold Amount (to the extent not covered by independent third-party insurance as to which the insurer is rated at least "A" by A.M. Best Company, has been notified of the potential claim and does not dispute coverage), or (ii) any one or more non-monetary final judgments that have, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) there is a period of 30 consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect; or

(i) ERISA. (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in a Material Adverse Effect, or (ii) the Borrower or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount which could reasonably be expected to result in a Material Adverse Effect; or

(j) Invalidity of Loan Documents. Any material provision of any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all the Obligations, ceases to be in full force and effect; or any Loan Party or any Subsidiary of any Loan Party contests in writing the validity or enforceability of any material provision of any Loan Document; or any Loan Party denies in writing that it has any or further liability or obligation under any material provision of any Loan Document, or purports to revoke, terminate or rescind any material provision of any Loan Document; or

(k) Change of Control. There occurs any Change of Control; or

(l) Collateral Documents. At any time other than during a Collateral Suspension Period, any Collateral Document shall for any reason (other than pursuant to the terms thereof or as a result of a failure by the Collateral Agent to maintain possession of stock certificates and promissory notes actually delivered to it and except to the extent that such loss relates to real property and is covered by a lender's title insurance policy and the related insurer does not dispute coverage) cease to create a valid and perfected first priority Lien (subject to Liens permitted by Section 7.01) on any material portion of the Collateral purported to be covered thereby.

8.02 Remedies upon Event of Default. If any Event of Default occurs and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders, take any or all of the following actions:

(a) declare the commitment of each Lender to make Loans and any obligation of the L/C Issuer to make L/C Credit Extensions to be terminated, whereupon such commitments and obligation shall be terminated;

(b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower;

(c) require that the Borrower Cash Collateralize the L/C Obligations (in an amount equal to the then Outstanding Amount thereof); and

(d) exercise on behalf of itself, the Lenders and the L/C Issuer all rights and remedies available to it, the Lenders and the L/C Issuer under the Loan Documents;

provided, however, that upon the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under the Bankruptcy Code of the United States, the obligation of each Lender to make Loans and any obligation of the L/C Issuer to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Borrower to Cash Collateralize the L/C Obligations as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

8.03 Application of Funds. After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be Cash Collateralized as set forth in the proviso to Section 8.02), any amounts received on account of the Obligations shall, subject to the provisions of Sections 2.15 and 2.16, be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal and interest but including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Article III) payable to the Administrative Agent in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest and Letter of Credit Fees) payable to the Lenders and the L/C Issuer (including fees, charges and disbursements of counsel to the respective Lenders and the L/C Issuer and amounts payable under Article III), ratably among them in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit Fees and interest on the Loans, L/C Borrowings and other Obligations, ratably among the Lenders and the L/C Issuer in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Loans, L/C Borrowings and amounts owing under Secured Hedge Agreements or any Secured Cash Management Agreement, ratably among the Lenders, the L/C Issuer and the Hedge Banks and the Cash Management Banks in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, to the Administrative Agent for the account of the L/C Issuer, to Cash Collateralize that portion of L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit to the extent not otherwise Cash Collateralized by the Borrower pursuant to Sections 2.03 and 2.15; and

Last, the balance, if any, after all of the Obligations (other than any Unmatured Surviving Obligations) have been indefeasibly paid in full, to the Borrower or as otherwise required by Law.

Subject to Section 2.03(c) and Section 2.15, amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Fifth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above, and thereafter applied as provided in clause "Last" above.

ARTICLE IX
ADMINISTRATIVE AGENT

9.01 Appointment and Authority.

(a) Each of the Lenders and the L/C Issuer hereby irrevocably appoints MSSF to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent, the Collateral Agent, the Lenders and the L/C Issuer, and solely in the case of Sections 9.06 and 9.10, the Borrower and the other Loan Parties, and the Borrower shall not have rights as a third party beneficiary of any of such provisions other than Sections 9.06 and 9.10.

(b) The Administrative Agent, each of the Lenders (in its capacities as a Lender, Swing Line Lender (if applicable) and potential Hedge Bank and potential Cash Management Bank) and the L/C Issuer hereby irrevocably designate and appoint the Collateral Agent as the agent with respect to the Collateral, and each of the Administrative Agent, each such Lender, and the L/C Issuer irrevocably authorizes the Collateral Agent, in such capacity, to take such action on its behalf under the provisions of this Agreement and the other Loan Documents and to exercise such powers and perform such duties as are expressly delegated to the Collateral Agent by the terms of this Agreement and the other Loan Documents, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, the Collateral Agent shall not have any duties or responsibilities except those expressly set forth herein, or any fiduciary relationship with any of the Administrative Agent, each Lender, or the L/C Issuer, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Collateral Agent. The Collateral Agent shall be entitled to the benefits of all provisions of this Article IX and Article X (including Section 10.04(c)) as if set forth in full herein with respect thereto.

9.02 Rights as a Lender. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

9.03 Exculpatory Provisions. The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, the Administrative Agent:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law; and

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 10.01 and 8.02) or (ii) in the absence of its own gross negligence or willful misconduct. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Administrative Agent by the Borrower, a Lender or the L/C Issuer.

The Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Collateral Documents, (v) the value or the sufficiency of any Collateral, or (vi) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

9.04 Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or the L/C Issuer, the Administrative Agent may presume that such condition is satisfactory to such Lender or the L/C Issuer unless the Administrative Agent shall have received notice to the contrary from such Lender or the L/C Issuer prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

9.05 Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

9.06 Resignation of Administrative Agent. The Administrative Agent may at any time give notice of its resignation to the Lenders, the L/C Issuer and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right to appoint a successor, which shall be a bank with an office in the United States or an Affiliate of any such bank with an office in the United States and which shall, unless an Event of Default under Section 8.01(a) or 8.01(f) has occurred and is continuing at such time, be reasonably acceptable to the Borrower (which acceptance shall not be unreasonably delayed). If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may on behalf of the Lenders and the L/C Issuer, appoint a successor Administrative Agent meeting the qualifications (including such acceptance by the Borrower) set forth above; provided that if the Administrative Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (a) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders or the L/C Issuer under any of the Loan Documents, the retiring Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (b) all payments,

communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and the L/C Issuer directly, until such time as the Required Lenders appoint a successor Administrative Agent as provided for above in this Section. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Administrative Agent, and the retiring Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Administrative Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article and Section 10.04 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

Any resignation by an Administrative Agent pursuant to this Section shall also constitute the resignation by such Person as L/C Issuer and Swing Line Lender. Upon the acceptance of a successor's appointment as Administrative Agent, (i) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer and Swing Line Lender, (ii) the retiring L/C Issuer and Swing Line Lender shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents, and (iii) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to the retiring L/C Issuer to effectively assume the obligations of the retiring L/C Issuer with respect to such Letters of Credit.

9.07 Non-Reliance on Administrative Agent and Other Lenders. Each Lender and the L/C Issuer acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender and the L/C Issuer also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

9.08 No Other Duties, Etc. Anything herein to the contrary notwithstanding, none of the Lead Arrangers, Book-Runners, Documentation Agents and Syndication Agent listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender or the L/C Issuer hereunder.

9.09 Administrative Agent May File Proofs of Claim. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or L/C

Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the L/C Issuer and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the L/C Issuer and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the L/C Issuer and the Administrative Agent under Sections 2.03(h) and (i), 2.09 and 10.04) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and the L/C Issuer to make such payments to the Administrative Agent and, if the Administrative Agent shall consent to the making of such payments directly to the Lenders and the L/C Issuer, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.09 and 10.04.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or the L/C Issuer any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or the L/C Issuer to authorize the Administrative Agent to vote in respect of the claim of any Lender or the L/C Issuer or in any such proceeding.

9.10 Collateral and Guaranty Matters. The Lenders and the L/C Issuer irrevocably authorize the Administrative Agent or the Collateral Agent, as applicable, at its option and in its discretion,

(a) to release any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Loan Document (i) upon termination of the Aggregate Commitments and payment in full of all Obligations (other than Unmatured Surviving Obligations) and the expiration or termination of all Letters of Credit (unless Cash Collateralized in a manner reasonably satisfactory to the L/C Issuer), (ii) that is sold or to be sold as part of or in connection with any sale permitted hereunder or under any other Loan Document, (iii) if approved, authorized or ratified in writing in accordance with Section 10.01, (iv) that constitutes "Excluded Property" (as such term is defined in the Security Agreement) or (v) pursuant to Section 6.18(a);

(b) to release any Guarantor from its obligations under the Guaranty and its properties from any Lien under any Loan Document if such Person ceases to be a Subsidiary as a result of a transaction permitted hereunder; and

(c) to subordinate any Lien on any property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 7.01(i).

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under the Guaranty pursuant to this Section 9.10. In each case as specified in this Section 9.10, the Administrative Agent will, at the Borrower's expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release of such item of Collateral from the assignment and security interest granted under the Collateral Documents or to subordinate its interest in such item, or to release such Guarantor from its obligations under the Guaranty, in each case in accordance with the terms of the Loan Documents and this Section 9.10.

9.11 Withholding Taxes. To the extent required by any applicable law, the Administrative Agent may withhold from any payment to any Lender (which shall, for purposes of this Section 9.11, include any L/C Issuer) an amount equivalent to any applicable withholding tax. Without limiting or expanding the provisions of Section 3.01, each Lender shall, and does hereby, indemnify the Administrative Agent against, and shall make payable in respect thereof within 30 days after demand therefor, any and all Taxes and any and all related losses, claims, liabilities and expenses (including fees, charges and disbursements of any counsel for the Administrative Agent) incurred by or asserted against the Administrative Agent by the IRS or any other Governmental Authority as a result of the failure of the Administrative Agent to properly withhold tax from amounts paid to or for the account of such Lender for any reason (including, without limitation, because the appropriate form was not delivered or not properly executed, or because such Lender failed to notify the Administrative Agent of a change in circumstance that rendered the exemption from, or reduction of withholding tax ineffective). A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement or any other Loan Document against any amount due the Administrative Agent under this Section 9.11. The agreements in this Section 9.11 shall survive the resignation and/or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations.

ARTICLE X
MISCELLANEOUS

10.01 Amendments, Etc. No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders (or by the Administrative Agent or the Collateral Agent, as the case may be, with the consent of the Required Lenders) and the Borrower or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such amendment, waiver or consent shall:

(a) extend or increase the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 8.02) without the written consent of such Lender (it being understood that a waiver of any condition precedent in Section 4.01 or 4.02, or the waiver of any Default or Event of Default or any mandatory prepayment, shall not constitute an extension or increase of any Commitment);

(b) postpone any date fixed by this Agreement or any other Loan Document for any payment (excluding mandatory prepayments) of principal, interest, fees or other amounts due to the Lenders (or any of them) hereunder or under such other Loan Document without the written consent of each Lender entitled to such payment;

(c) reduce the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing, or (subject to clause (vi) of the second proviso to this Section 10.01) any fees or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender entitled to such amount; provided, however, that only the consent of the Required Lenders shall be necessary (i) to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest or Letter of Credit Fees at the Default Rate, (ii) to amend any financial covenant hereunder (or any defined term used therein) even if the effect of such amendment would be to reduce the rate of interest on any Loan or L/C Borrowing or to reduce any fee payable hereunder or (iii) to waive any obligation of the Borrower to pay interest, commitment fees or Letter of Credit Fees at the highest grid rate upon the occurrence and continuance of any Event of Default;

(d) change (i) Section 8.03 without the written consent of each Lender directly affected thereby, (ii) following an exercise of remedies pursuant to Section 8.02, change Section 2.12(a) or Section 2.13 in a manner that would alter the pro rata sharing of payments required thereby without the written consent of each Lender directly affected thereby or (iii) the order of application of any prepayment of Loans among the Facilities from the application thereof set forth in the applicable provisions of Section 2.05(b), in any manner that materially and adversely affects the Lenders under a Facility without the written consent of (x) if such Facility is a Class of Term Loans, the Required Tranche Term Lenders and (y) if such Facility is the Revolving Credit Facility, the Required Revolving Lenders;

(e) change (i) any provision of this Section 10.01 or the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder (other than the definitions specified in clause (ii) of this Section 10.01(e)), without the written consent of each Lender or (ii) the definition of "Required Revolving Lenders" or "Required Tranche Term Lenders" without the written consent of each Lender under the applicable Facility;

(f) at any time other than during a Collateral Suspension Period, release all or substantially all of the Collateral in any transaction or series of related transactions, without the written consent of each Lender;

(g) release all or substantially all of the value of the Guaranty, without the written consent of each Lender, except to the extent the release of any Subsidiary from the Guaranty is permitted pursuant to Section 9.10 (in which case such release may be made by the Administrative Agent acting alone);

(h) impose any greater restriction on the ability of any Lender under a Facility to assign any of its rights or obligations hereunder without the written consent of (i) if such Facility is a Class of Term Loans, the Required Tranche Term Lenders with respect to such Class and (ii) if such Facility is the Revolving Credit Facility, the Required Revolving Lenders;

(i) waive any condition set forth in Section 4.01 without the written consent of the Lead Arrangers; or

(j) waive any condition set forth in Section 4.02 as to any Credit Extension under the Revolving Credit Facility without the written consent of the Required Revolving Lenders;

and provided further that without limiting any requirement that the same be signed or executed by the Borrower or any other applicable Loan Party, as the case may be, (i) no amendment, waiver or consent shall, unless in writing and signed by the L/C Issuer in addition to the Lenders required above, affect the rights or duties of the L/C Issuer under this Agreement or any Issuer Document relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver or consent shall, unless in writing and signed by the Swing Line Lender in addition to the Lenders required above, affect the rights or duties of the Swing Line Lender under this Agreement; (iii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document; (iv) Section 10.06(g) may not be amended, waived or otherwise modified without the consent of each Granting Lender all or any part of whose Loans are being funded by an SPC at the time of such amendment, waiver or other modification; (v) if the Administrative Agent and the Borrower shall have jointly identified an obvious error or any error or omission of a technical or immaterial nature in any provision of the Loan Documents, then the Administrative Agent and the Borrower shall be permitted to amend such provision and such amendment shall become effective without any further action or consent of any other party to any Loan Document if the same is not objected to in writing by the Required Lenders within five Business Days after notice thereof; (vi) the Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto and (vii) any waiver, amendment or modification of any Loan Document that by its terms affects the rights or duties under such Loan Document of the Lenders under a Facility (but not the Lenders under any other Facility) may be effected by an agreement or

agreements in writing entered into solely by the Borrower and if such affected Facility is (i) a Class of Term Loans, the Required Tranche Term Lenders with respect to such Class and (ii) the Revolving Credit Facility, the Required Revolving Lenders. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender more adversely than other affected Lenders shall require the consent of such Defaulting Lender.

Notwithstanding the foregoing, any amendment or waiver of any representation or warranty set forth in Article V or any existing Default or Event of Default, in each case, in connection with the satisfaction of the conditions set forth in Section 4.02 for any Credit Extension after the Amendment and Restatement Effective Date shall be ineffective with respect to the satisfaction of such conditions without the written consent of the Required Revolving Lenders (it being understood that an amendment or waiver of any representation or warranty for which the condition set forth in Section 4.02(a) is met at the time of such amendment or waiver (without giving effect to such amendment or waiver), or any amendment or waiver of any covenant under which no Default or Event of Default exists at the time of such amendment or waiver (without giving effect to such amendment or waiver), shall not require the separate written consent of the Required Revolving Lenders as a condition to the satisfaction of the conditions set forth in Section 4.02; provided that any waiver for the purpose of waiving a condition to borrowing shall require the consent of the Required Revolving Lenders).

Notwithstanding the foregoing, this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent and the Borrower (i) to add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Obligations, (ii) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders and (iii) to permit any such additional credit facilities which are term facilities to share ratably with the Term Loans in the application of prepayments and to permit any such credit facilities which are revolving credit facilities to share ratably with the Revolving Credit Facility in the application of prepayments; provided that no such consent of the Required Lenders shall be required to make any changes contemplated by Section 2.14.

Notwithstanding anything herein to the contrary, the Borrower and the Administrative Agent may, without the input or consent of any other Lender, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate in the opinion of the Administrative Agent to effect the provisions of Section 2.14, 2.18, 2.19 or 2.20.

If any Lender does not consent to a proposed amendment, waiver, consent or release with respect to any Loan Document that requires the consent of each Lender (or all of the Lenders under any Facility) and that has been approved by the Required Lenders (or the

Required Revolving Lenders or the Required Tranche Term Lenders, as the case may be), the Borrower may replace such non-consenting Lender in accordance with Section 10.13; provided that such amendment, waiver, consent or release can be effected as a result of the assignment contemplated by such Section (together with all other such assignments required by the Borrower to be made pursuant to this paragraph).

10.02 Notices; Effectiveness; Electronic Communications.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Borrower, the Administrative Agent, the L/C Issuer or the Swing Line Lender, to the address, telecopier number, electronic mail address or telephone number specified for such Person on Schedule 10.02; and

(ii) if to any other Lender, to the address, telecopier number, electronic mail address or telephone number specified in its Administrative Questionnaire (including, as appropriate, notices delivered solely to the Person designated by a Lender on its Administrative Questionnaire then in effect for the delivery of notices that may contain material non-public information relating to the Borrower).

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received. Notices sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered through electronic communications to the extent provided in subsection (b) below shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Lenders and the L/C Issuer hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or the L/C Issuer pursuant to Article II if such Lender or the L/C Issuer, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested"

function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) The Platform. THE PLATFORM IS PROVIDED “AS IS” AND “AS AVAILABLE.” THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Related Parties (collectively, the “Agent Parties”) have any liability to the Borrower, any Lender, the L/C Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower’s or the Administrative Agent’s transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; provided, however, that in no event shall any Agent Party have any liability to the Borrower, any Lender, the L/C Issuer or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

(d) Change of Address, Etc. Each of the Borrower, the Administrative Agent, the L/C Issuer and the Swing Line Lender may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the Borrower, the Administrative Agent, the L/C Issuer and the Swing Line Lender. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, telecopier number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the “Private Side Information” or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender’s compliance procedures and applicable Law, including United States Federal and state securities Laws, to make reference to Borrower Materials that are not made available through the “Public Side Information” portion of the Platform and that may contain material non-public information with respect to the Borrower or its securities for purposes of United States Federal or state securities laws.

(e) Reliance by Administrative Agent, L/C Issuer and Lenders. The Administrative Agent, the L/C Issuer and the Lenders shall be entitled to rely and act upon any notices (including telephonic Committed Loan Notices and Swing Line Loan Notices) purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify the Administrative Agent, the L/C Issuer, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

10.03 No Waiver; Cumulative Remedies. No failure by any Lender, the L/C Issuer or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

10.04 Expenses; Indemnity; Damage Waiver.

(a) Costs and Expenses. The Borrower shall pay or reimburse (i) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent and the Lead Arrangers and their respective Affiliates (including the reasonable fees, charges and disbursements of one counsel (together with one local counsel, if necessary, in each relevant jurisdiction for the Lead Arrangers and the Administrative Agent)), in connection with the syndication of the Facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers (including proposed amendments, modifications or waivers) of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable and documented out-of-pocket expenses incurred by the L/C Issuer in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent, the Collateral Agent, any Lender or the L/C Issuer and their respective Affiliates (including, without limitation, the reasonable fees and disbursements of one counsel (together with one local counsel, if necessary, in each relevant jurisdiction and another counsel if an actual conflict of interest exists among the Administrative Agent, the Collateral Agent, the L/C Issuer, the Lenders and their respective Affiliates) for the Administrative Agent, the Collateral Agent, the Lenders, the L/C Issuer and their respective Affiliates taken together), in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) Indemnification by the Borrower. The Borrower shall indemnify the Administrative Agent (and any sub-agent thereof), the Lead Arrangers, the Collateral Agent, each Lender and the L/C Issuer, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related reasonable and documented out-of-pocket costs and expenses (including, without limitation, the reasonable fees and disbursements of one counsel (together with one local counsel, if necessary, in each relevant jurisdiction) for all Indemnitees taken as a whole; provided that if there is a conflict of interest, the Borrower shall so indemnify for expenses of one additional counsel to the affected Indemnitees taken as a whole), incurred by any Indemnitee or asserted against any Indemnitee by any third party or by the Borrower or any other Loan Party arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents, (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by the L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by the Borrower or any of its Subsidiaries, or any Environmental Liability related in any way to the Borrower or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any other Loan Party or any of the Borrower's or such Loan Party's directors, shareholders or creditors, and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee (and, upon any such determination pursuant to this clause (x), any indemnification payments with respect to such losses, claims, damages, liabilities or related expenses previously received by such Indemnitee shall be subject to reimbursement by such Indemnitee), (y) result from a claim brought by the Borrower or any other Loan Party against an Indemnitee for material breach of such Indemnitee's obligations hereunder or under any other Loan Document, if the Borrower or such Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction or (z) result from claims of any of the Lenders solely against one or more Lenders (and not by one or more Lenders against the Administrative Agent, the Collateral Agent, the Lead Arrangers or the L/C Issuer in such capacity) that have not resulted from the action, inaction, participation or contribution of the Borrower or its Subsidiaries or any of their respective officers, directors, stockholders, partners, members, employees, agents, representatives or advisors.

(c) Reimbursement by Lenders. To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by it to the Administrative Agent (or any sub-agent thereof), the L/C Issuer or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), the L/C Issuer or such Related Party, as the case may be, such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent) or the L/C Issuer in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) or L/C Issuer in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 2.12(d).

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable law, the Borrower shall not assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee referred to in subsection (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby other than for direct or actual damages resulting from the gross negligence or willful misconduct of such Indemnitee as determined by a final and nonappealable judgment of a court of competent jurisdiction.

(e) Payments. All amounts due under this Section shall be payable not later than ten Business Days after demand therefor.

(f) Survival. The agreements in this Section shall survive the resignation of the Administrative Agent, the L/C Issuer and the Swing Line Lender, the replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations.

10.05 Payments Set Aside. To the extent that any payment by or on behalf of the Borrower is made to the Administrative Agent, the L/C Issuer or any Lender, or the Administrative Agent, the L/C Issuer or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent, the L/C Issuer or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and the L/C Issuer severally agrees to pay to the Administrative Agent upon demand its applicable

share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders and the L/C Issuer under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

10.06 Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of Section 10.06(b), (ii) by way of participation in accordance with the provisions of Section 10.06(d), (iii) by way of pledge or assignment of a security interest subject to the restrictions of Section 10.06(f), or (iv) to an SPC in accordance with the provisions of Section 10.06(g) (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the L/C Issuer and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment(s) and the Loans (including for purposes of this Section 10.06(b), participations in L/C Obligations and in Swing Line Loans) at the time owing to it); provided that except in the case of an assignment to a Lender, an Affiliate of the assigning Lender or an Approved Fund or the Borrower in connection with acquisitions or repurchases of Term Loans by the Borrower pursuant to Discounted Prepayment Offers under Section 2.17, any such assignment shall be subject to the following conditions:

(i) Minimum Amounts. (A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment under any Facility and the Loans at the time owing to it under such Facility or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than \$5,000,000, unless (x) such assignment is in connection with the primary syndication of the Facilities or (y) each of

the Administrative Agent and, so long as no Event of Default under Section 8.01(a), Section 8.01(f) (with respect to the Borrower) or Section 8.01(g)(i) (with respect to the Borrower) has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed); provided, however, that concurrent assignments to members of an Assignee Group and concurrent assignments from members of an Assignee Group to a single Eligible Assignee (or to an Eligible Assignee and members of its Assignee Group) will be treated as a single assignment for purposes of determining whether such minimum amount has been met;

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Commitment assigned, except that this clause (ii) shall not (A) apply to the Swing Line Lender's rights and obligations in respect of Swing Line Loans or (B) prohibit any Lender from assigning all or a portion of its rights and obligations among separate Facilities on a non-pro rata basis;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default under Section 8.01(a), Section 8.01(f) (with respect to the Borrower) or Section 8.01(g)(i) (with respect to the Borrower) has occurred and is continuing at the time of such assignment, (2) such assignment is to a Lender, an Affiliate of a Lender, an Approved Fund, MSSF or an Affiliate of MSSF (other than the Borrower or any of its Subsidiaries) or (3) such assignment is in connection with the primary syndication of the Facilities; provided that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within 5 Business Days after having received notice thereof;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of (1) any Term Commitment or Revolving Credit Commitment if such assignment is to a Person that is not a Lender with a Commitment in respect of the applicable Facility, an Affiliate of such Lender, an Approved Fund with respect to such Lender, MSSF or an Affiliate of MSSF (other than the Borrower or any of its Subsidiaries) or (2) any Term Loan to a Person that is not a Lender, an Affiliate of a Lender, an Approved Fund, MSSF or an Affiliate of MSSF (other than the Borrower or any of its Subsidiaries);

(C) the consent of the L/C Issuer (such consent not to be unreasonably withheld or delayed) shall be required for any assignment that increases the obligation of the assignee to participate in exposure under one or more Letters of Credit (whether or not then outstanding); and

(D) the consent of the Swing Line Lender (such consent not to be unreasonably withheld or delayed) shall be required for any assignment in respect of the Revolving Credit Facility;

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire;

(v) No Assignment to Borrower. No such assignment shall be made to the Borrower or any of its Subsidiaries, or any of the Borrower's Affiliates (other than MSSF and its Affiliates, excluding the Borrower and its Subsidiaries); and

(vi) No Assignment to Natural Persons. No such assignment shall be made to a natural person.

In connection with any waiver, consent or other action requiring Required Lender, Required Revolving Lender or Required Tranche Term Lender consent, notwithstanding anything in this Agreement to the contrary, (x) unless a Default shall have occurred and is continuing, none of the Borrower's Affiliates shall be permitted to consent (or withhold its consent) with respect to the Loans and Commitments held by such Affiliates that are, in the aggregate, in excess of 10% of the aggregate outstanding amount of any Class of Loans and Commitments or all Loans and Commitments, as the case may be, as of the date of such waiver, consent or action, and for purposes of calculating Required Lender, Required Revolving Lender or Required Tranche Term Lender consent, as the case may be, an amount equal to the aggregate amount of any Loans or Commitments held by such Affiliates that is in excess of such 10% shall be deducted from the aggregate amount of Loans and Commitments outstanding entitled to vote with respect to such Class of Loans and Commitments or all Loans and Commitments, as the case may be, and (y) if a Default shall have occurred and is continuing, none of the Borrower's Affiliates shall be permitted to consent (or withhold its consent) with respect to its Loans and Commitments, and for purposes of calculating Required Lender, Required Revolving Lender or Required Tranche Term Lender consent, as the case may be, an amount equal to the aggregate amount of all Loans or Commitments held by such Affiliates shall be deducted from the aggregate amount of Loans and Commitments outstanding entitled to vote with respect to such Class of Loans and Commitments or all Loans and Commitments, as the case may be.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05 and 10.04 with respect to facts and circumstances occurring prior to the effective date of such assignment. Upon request, the Borrower (at its expense) shall execute and deliver a Note to the assignee

Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 10.06(d).

(c) Register. The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. In addition, the Administrative Agent shall maintain on the Register information regarding the designation, and revocation of designation, of any Lender as a Defaulting Lender. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

Upon its receipt of a duly completed Assignment and Assumption executed by the assigning Lender and an assignee, together with any Note or Notes subject to such assignment, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), any applicable tax forms and any written consent to such assignment required by paragraph (b) of this Section 10.06, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural person, a Defaulting Lender, or the Borrower or any of its Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in L/C Obligations and/or Swing Line Loans) owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent, the Lenders and the L/C Issuer shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 10.01 that affects such Participant. Subject to subsection (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 (subject to the requirements and limitations therein, including the requirement to provide any applicable forms under Section 3.01) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 10.06(b). To the extent permitted by

law, each Participant also shall be entitled to the benefits of Section 10.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.13 as though it were a Lender. Each Lender that sells a participation with respect to a Commitment or Loan to the Borrower shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and related interest amounts) of each Participant's interest in the Commitment and/or Loan (the "Participant Register"). The entries in the Participant Register shall be conclusive, absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Sections 3.01, 3.04 or 3.05 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent (such consent not to be unreasonably withheld or delayed).

(f) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or any central bank having jurisdiction; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) Special Purpose Funding Vehicles. Notwithstanding anything to the contrary contained herein, any Lender (a "Granting Lender") may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower (an "SPC") the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; provided that (i) an SPC shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 (subject to the requirements and limitations therein, including the requirement to provide any applicable forms under Section 3.01) but only to the same extent as the applicable Granting Lender, (ii) nothing herein shall constitute a commitment by any SPC to fund any Loan, and (iii) if an SPC elects not to exercise such option or otherwise fails to make all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof or, if it fails to do so, to make such payment to the Administrative Agent as is required under Section 2.12(b)(ii). Each party hereto hereby agrees that (i) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrower under this Agreement (including its obligations under Section 3.04) unless such grant was made with prior written consent of the Borrower (such consent not to be unreasonably withheld or delayed), (ii) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement for which a Lender would be liable (all liability for which shall remain with the Granting Lender), and (iv) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Loan Document, remain the lender of record hereunder. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender

to the same extent, and as if, such Loan were made by such Granting Lender. In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior debt of any SPC, it will not institute against, or join any other Person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency, or liquidation proceeding under the laws of the United States or any State thereof. Notwithstanding anything to the contrary contained herein, any SPC may (i) with notice to, but without prior consent of the Borrower and the Administrative Agent, assign all or any portion of its right to receive payment with respect to any Loan to the Granting Lender and (ii) disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or Guarantee or credit or liquidity enhancement to such SPC.

(h) Resignation as L/C Issuer or Swing Line Lender after Assignment. Notwithstanding anything to the contrary contained herein, if at any time MSSF assigns all of its Revolving Credit Commitment and Revolving Credit Loans pursuant to Section 10.06(b), MSSF may, (i) upon 30 days' notice to the Borrower and the Lenders, resign as L/C Issuer and/or (ii) upon 30 days' notice to the Borrower, resign as Swing Line Lender. In the event of any such resignation as L/C Issuer or Swing Line Lender, the Borrower shall be entitled to appoint from among the Lenders a successor L/C Issuer or Swing Line Lender hereunder; provided, however, that no failure by the Borrower to appoint any such successor shall affect the resignation of MSSF as L/C Issuer or Swing Line Lender, as the case may be. If MSSF resigns as L/C Issuer, it shall retain all the rights, powers, privileges and duties of the L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c)). If MSSF resigns as Swing Line Lender, it shall retain all the rights of the Swing Line Lender provided for hereunder with respect to Swing Line Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swing Line Loans pursuant to Section 2.04(c). Upon the appointment of a successor L/C Issuer and/or Swing Line Lender, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer or Swing Line Lender, as the case may be, and (b) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to the retiring L/C Issuer to effectively assume the obligations of the retiring L/C Issuer with respect to such Letters of Credit.

10.07 Treatment of Certain Information; Confidentiality. Each of the Administrative Agent, the Lenders and the L/C Issuer agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) on a confidential and need-to-know basis to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, advisors and representatives who need to know such information in connection with the transactions contemplated hereby (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and will be subject to customary confidentiality obligations of professional

practice or will agree (which agreement may be oral or pursuant to company policy) to be bound by the terms of this Section 10.07 (or language substantially similar to this Section 10.07), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners) (in which case such Person, to the extent permitted by law and except where such disclosure is made in the course of routine audits or reviews by regulatory or self-regulatory authorities, shall inform the Borrower promptly) or to any Federal Reserve Bank or central bank in connection with a pledge or assignment pursuant to Section 10.06(f), (c) to the extent required pursuant to the order of any court or administrative agency or in any pending legal or administrative proceeding, or by applicable laws (including for purposes of establishing a “due diligence” defense) or regulations or by any subpoena or similar legal process (in which case such Person, to the extent permitted by law, shall inform the Borrower promptly), (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section 10.07, to (i) any permitted assignee of or Participant in, or any prospective permitted assignee of or Participant in, any of its rights or obligations under this Agreement or any Lender of Additional Term Loans or any potential Lender of Additional Term Loans or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations, (g) with the consent of the Borrower or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section, (ii) becomes available to the Administrative Agent, any Lender, the L/C Issuer or any of their respective Affiliates on a basis that to its knowledge is nonconfidential from a source other than the Borrower or (iii) is independently developed by such Person.

For purposes of this Section, “Information” means all information received from any Loan Party or any Subsidiary thereof relating to any Loan Party or any Subsidiary thereof or their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or the L/C Issuer on a basis that to its knowledge is nonconfidential prior to disclosure by any Loan Party or any Subsidiary thereof, provided that, in the case of information received from a Loan Party or any such Subsidiary after the Original Closing Date, such information is clearly identified at the time of delivery as confidential or is delivered pursuant to Sections 6.01, 6.02 or 6.03 hereof. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Each of the Administrative Agent, the Lenders and the L/C Issuer acknowledges that (a) the Information may include material non-public information concerning the Borrower or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable Law, including United States Federal and state securities Laws.

10.08 Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender, the L/C Issuer and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, the L/C Issuer or any such Affiliate to or for the credit or the account of the Borrower against any and all of the obligations of the Borrower owing under this Agreement or any other Loan Document to such Lender or the L/C Issuer, irrespective of whether or not such Lender or the L/C Issuer shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower may be contingent or unmatured or are owed to a branch or office of such Lender or the L/C Issuer different from the branch or office holding such deposit or obligated on such indebtedness; provided, that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.16 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender, the L/C Issuer and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, the L/C Issuer or their respective Affiliates may have. Each Lender and the L/C Issuer agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

10.09 Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the "Maximum Rate"). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

10.10 Counterparts; Integration; Effectiveness.

(a) This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become

effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or PDF (or similar file) by electronic mail shall be effective as delivery of a manually executed counterpart of this Agreement.

(b) Electronic Execution of Assignments. The words “execution,” “signed,” “signature” and words of like import in any Assignment and Assumption or in any amendment or other modification hereof (including waivers and consents) shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

10.11 Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

10.12 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 10.12, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent, the L/C Issuer or the Swing Line Lender, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

10.13 Replacement of Lenders. If any Lender requests compensation under Section 3.04 or delivers a notice described in Section 3.02, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, if any Lender is a Defaulting Lender or if any other circumstance exists hereunder that gives the Borrower the right to replace a Lender as a party hereto, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the

Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 10.06), all of its interests, rights and obligations under this Agreement and the related Loan Documents (or, in the case of a consent which requires the consent of all Lenders under a particular Facility, all of its interests, rights and obligations under such Facility) to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

(a) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and L/C Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts) (or, in the case of a consent which requires the consent of all Lenders under a particular Facility, such amounts solely with respect to such Facility);

(b) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter; and

(c) such assignment does not conflict with applicable Laws.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

Any Lender being replaced pursuant to this Section 10.13 shall promptly (i) execute and deliver an Assignment and Assumption with respect to such Lender's Commitment and outstanding Loans and participations in L/C Obligations and Swing Line Loans, and (ii) deliver any Notes evidencing such Loans to the Borrower or Administrative Agent.

10.14 Governing Law; Jurisdiction; Etc.

(a) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) SUBMISSION TO JURISDICTION. THE BORROWER IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NONEXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT SITTING IN NEW YORK COUNTY, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT TO WHICH IT IS A PARTY, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY

AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT ANY PARTY MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST ANY OTHER PARTY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) WAIVER OF VENUE. THE BORROWER IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 10.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

10.15 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

10.16 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), the Borrower acknowledges and

agrees, and acknowledges its Subsidiaries' understanding, that: (i) (A) the arranging and other services regarding this Agreement provided by the Administrative Agent and the Lead Arrangers are arm's-length commercial transactions between the Borrower and its Subsidiaries, on the one hand, and the Administrative Agent and the Lead Arrangers, on the other hand, (B) the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) the Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) each of the Administrative Agent and each Lead Arranger is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrower or any of its Subsidiaries, or any other Person and (B) none of the Administrative Agent and the Lead Arrangers have any obligation to the Borrower or any of its Subsidiaries with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Administrative Agent and the Lead Arrangers and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and its Subsidiaries, and none of the Administrative Agent and the Lead Arrangers have any obligation to disclose any of such interests to the Borrower or any of its Subsidiaries. To the fullest extent permitted by law, the Borrower hereby waives and releases any claims that it may have against the Administrative Agent and the Lead Arrangers with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

10.17 USA PATRIOT Act Notice. Each Lender that is subject to the Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "USA Patriot Act"), it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify each Loan Party in accordance with the USA Patriot Act. The Borrower shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender reasonably requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the Act.

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

MSCI INC.

By: /s/ Frederick Bogdan
Name: Frederick Bogdan
Title: Assistant Secretary, General Counsel

MORGAN STANLEY SENIOR FUNDING, INC.,
as Administrative Agent, L/C Issuer, Swing Line Lender and a
Lender

By: /s/ Stephen B. King
Name: Stephen B. King
Title: VP

MORGAN STANLEY & CO., LLC,
as Collateral Agent

By: /s/ Stephen B. King
Name: Stephen B. King
Title: Executive Director

MORGAN BANK, N.A., as Lender

By: /s/ Wissam Kairouz
Name: Wissam Kairouz
Title: Authorized Signatory

The Bank of Tokyo-Mitsubishi UFJ, Ltd., as a Lender

By: /s/ Oscar D. Cortez
Name: Oscar D. Cortez
Title: Vice President

[SIGNATURE PAGE TO MSCI AMENDED AND RESTATED CREDIT AGREEMENT]

Fifth Third Bank,
as a Lender

By: /s/ Neil Kiernan
Name: Neil Kiernan
Title: Vice President

If a second signatory is necessary:

By: _____
Name:
Title:

JP Morgan Chase Bank, N.A.,
as a Lender

By: /s/ Catherine Grossman
Name: Catherine Grossman
Title: V.P.

If a second signatory is necessary:

By: _____
Name:
Title:

RBS Citizens, N.A.,
as a Lender

By: /s/ Paul Darrigo
Name: Paul Darrigo
Title: Senior Vice President

If a second signatory is necessary:

By: _____
Name:
Title:

[SIGNATURE PAGE TO MSCI AMENDED AND RESTATED CREDIT AGREEMENT]

COMPASS BANK,
as a Lender

By: /s/ Brandon Kelley
Name: Brandon Kelley
Title: Senior Vice President

HSBC Bank USA, National Association,
as a Lender

By: /s/ Richard J. Elias
Name: Richard J. Elias
Title: Vice President

If a second signatory is necessary:

By: _____
Name:
Title:

TD Bank, N.A.
as a Lender

By: /s/ Shreya Shah
Name: Shreya Shah
Title: Senior Vice President

If a second signatory is necessary:

By: _____
Name:
Title:

Bank of America, N.A.,
as a Lender

By: /s/ Maryanne Fitzmaurice
Name: Maryanne Fitzmaurice
Title: Director

If a second signatory is necessary:

By: _____
Name:
Title:

[SIGNATURE PAGE TO MSCI AMENDED AND RESTATED CREDIT AGREEMENT]

Raymond James Bank, FSB, as a Lender

By: /s/ Alexander L. Rody

Name: Alexander L. Rody

Title: Senior Vice President

Sumitomo Mitsui Banking Corporation,
as a Lender

By: /s/ David W. Kee

Name: David W. Kee

Title: Managing Director

WELLS FARGO BANK, N.A., as a Lender

By: /s/ Tony Sood

Name: Tony Sood

Title: Director

If a second signatory is necessary:

By: _____

Name:

Title:

SOVEREIGN BANK, N.A.,
as a Lender

By: /s/ Cameron Gateman

Name: Cameron Gateman

Title: SVP-Large Corp. Banking

[SIGNATURE PAGE TO MSCI AMENDED AND RESTATED CREDIT AGREEMENT]

If a second signatory is necessary:

By: _____
Name:
Title:

Key Bank National Association,
as a Lender

By: /s/ Robert W. Boswell
Name: Robert W. Boswell
Title: Senior Vice President

If a second signatory is necessary:

By: _____
Name:
Title:

Bank of the West,
as a Lender

By: /s/ Sidney Jordan
Name: Sidney Jordan
Title: Senior Vice President

If a second signatory is necessary:

By: _____
Name:
Title:

Land Bank of Taiwan, New York Branch,
as a Lender

By: /s/ Henry Leu
Name: Henry Leu
Title: SVP & General Manager

If a second signatory is necessary:

By: _____
Name:
Title:

[SIGNATURE PAGE TO MSCI AMENDED AND RESTATED CREDIT AGREEMENT]

City National Bank,
as a Lender

By: /s/ Jeffrey Feinberg

Name: Jeffrey Feinberg

Title: Senior Vice President

If a second signatory is necessary:

By: _____

Name:

Title:

Hua Nan Commercial Bank, Ltd., Los Angeles Branch,
as a Lender

By: /s/ Oliver C. H. Hsu

Name: Oliver C.H. Hsu

Title: VP & General Manager

If a second signatory is necessary:

By: _____

Name:

Title:

FIRST NIAGARA BANK, N.A.,
as a Lender

By: /s/ Ken Jameson

Name: Ken Jameson

Title: Vice President

If a second signatory is necessary:

By: _____

Name:

Title:

[SIGNATURE PAGE TO MSCI AMENDED AND RESTATED CREDIT AGREEMENT]

Mercantil Commercebank N.A.,
as a Lender

By: /s/ Eduardo J. Marino
Name: Eduardo J. Marino
Title: VP

If a second signatory is necessary:

By: /s/ Gary Ladulcepa
Name: Gary Ladulcepa
Title: EVP

E. SUN COMMERCIAL BANK LTD.,
LOS ANGELES BRANCH
as a Lender

By: /s/ Edward Chen
Name: Edward Chen
Title: VP & GENERAL MANAGER

Mega International Commercial Bank Co., Ltd.,
New York Branch
as a Lender

By: /s/ Priscilla Hsing
Name: Priscilla Hsing
Title: VP & DGM

If a second signatory is necessary:

By: _____
Name:
Title:

CHANG HWA COMMERCIAL BANK, LTD., NEW YORK
BRANCH
as a Lender

By: /s/ Eric Y.S. Tsai
Name: Eric Y.S. Tsai
Title: Vice President & General Manager

[SIGNATURE PAGE TO MSCI AMENDED AND RESTATED CREDIT AGREEMENT]

Chinatrust Commercial Bank, New York Branch
as a Lender

By: /s/ Amy Fong

Name: Amy Fong

Title: SVP & General Manager

The Bank of East Asia, Limited, Los Angeles Branch
as a Lender

By: /s/ Chong Tan

Name: Chong Tan

Title: VP & Credit Manager

If a second signatory is necessary:

By: /s/ Victor Li

Name: Victor Li

Title: General Manager

[SIGNATURE PAGE TO MSCI AMENDED AND RESTATED CREDIT AGREEMENT]

**AWARD AGREEMENT
FOR RESTRICTED STOCK UNITS
FOR DIRECTORS
UNDER THE MSCI INC. INDEPENDENT DIRECTORS' EQUITY COMPENSATION PLAN**

MSCI Inc. (together with all of its Subsidiaries, the "**Company**") hereby grants to you Restricted Stock Units ("**RSUs**") as described below. The awards are being granted under the MSCI Inc. Independent Directors' Equity Compensation Plan (the "**Plan**").

Participant: [Name]

Number of RSUs Granted: [#] RSUs

Grant Date: [—] (the "**Grant Date**")

Vesting Schedule: 100% of your RSUs shall vest on the first anniversary of the Grant Date (the "**Scheduled Vesting Date**").

Provided you continue to provide services to the Company through the Scheduled Vesting Date, the RSUs will vest and convert as provided above and as further described in Exhibit A. Your RSUs may be subject to forfeiture if you terminate service with the Company before the Scheduled Vesting Date, as set forth in the Plan and this Restricted Stock Unit Award Agreement (including Exhibit A hereto, the "**Award Agreement**").

You agree that this Award Agreement is granted under and governed by the terms and conditions of the Plan and Exhibit A. Unless defined in this Award Agreement, capitalized terms shall have the meanings ascribed to them in the Plan.

IN WITNESS WHEREOF, MSCI has duly executed and delivered this Award Agreement as of the Grant Date.

MSCI INC.

Name: Gary Retelny
Title: Corporate Secretary

Attachments: Exhibit A (Terms and Conditions of the Award)

**TERMS AND CONDITIONS
OF THE RESTRICTED STOCK UNIT AWARD AGREEMENT**

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SECTION 1. *RSUs Generally.*

MSCI has awarded you RSUs as an incentive for you to continue to provide services as a Director to MSCI and to, among other things, align your interests with those of the Company and to reward you for your continued service as a Director of MSCI in the future. As such, you will earn your RSU award only if you remain in continuous service as a Director of MSCI through the Scheduled Vesting Date.

Each of your RSUs corresponds to one share of MSCI common stock. Except as otherwise provided in Section 13, a RSU constitutes a contingent and unsecured promise by MSCI to pay you one share of MSCI common stock on the conversion date for the RSU. As the holder of RSUs, you have only the rights of a general unsecured creditor of MSCI. You will not be a stockholder with respect to the shares of MSCI common stock underlying your RSUs unless and until your RSUs convert to shares.

Section 409A of the Code imposes rules relating to the taxation of deferred compensation, including your stock unit award. The Company reserves the right to modify the terms of your stock unit award, including, without limitation, the payment provisions applicable to your RSUs, to the extent necessary or advisable to comply with Section 409A of the Code.

SECTION 2. *Vesting Schedule and Conversion.*

(a) *Vesting Schedule.* Your RSUs will vest according to the following schedule: 100% of your RSUs will vest on the Scheduled Vesting Date. Except as otherwise provided in this Award Agreement, each portion of your RSUs will vest only if you continue to provide future services to the Company by remaining in continuous service as a Director of the Company through the Scheduled Vesting Date. The special vesting terms set forth in Sections 4 and 5 of this Award Agreement apply 1) if your service as a Director of the Company terminates by reason of your death or Disability or 2) upon a Change in Control.

(b) *Conversion.*

(i) Except as otherwise provided in this Award Agreement or pursuant to any election form submitted in connection with the MSCI Inc. Independent Directors Deferral Plan (as such Plan may be amended from time to time, the "Deferral Plan"), each of your vested RSUs will convert to one share of MSCI common stock on the Scheduled Vesting Date.

(ii) Shares to which you are entitled upon conversion of RSUs under any provision of this Award Agreement shall not be subject to any transfer restrictions, other than those that may arise under the securities laws or the Company's policies.

SECTION 3. *Dividend Equivalent Payments.*

Until your RSUs convert to shares, if and when MSCI pays a regular or ordinary cash dividend on common stock, you will be paid a dividend equivalent in the same amount as the dividend you would have received if you held shares for your RSUs. No dividend equivalents will be paid to you with respect to any canceled or forfeited RSUs.

MSCI will decide on the form of payment and may pay dividend equivalents in shares of MSCI common stock, in cash or in a combination thereof. MSCI will pay the dividend equivalent when it pays the corresponding dividend on its common stock.

Because dividend equivalent payments are considered part of your compensation for income tax purposes, they will be subject to applicable tax obligations.

SECTION 4. *Death and Disability.*

The following special vesting and payment terms apply to your RSUs:

(a) *Death.* If your service as a Director of the Company terminates due to death, all of your unvested RSUs will immediately vest. Your RSUs will convert into shares of MSCI common stock upon your death; *provided* that MSCI has knowledge of your death within 30 days following your death. Such shares will be delivered to the beneficiary you have designated pursuant to Section 8 or the legal representative of your estate, as applicable.

(b) *Disability.* If your service as a Director of the Company terminates due to Disability, all of your unvested RSUs will immediately vest. All of your RSUs will convert into shares of MSCI common stock on the date your service as a Director of the Company terminates or within 30 days thereafter.

SECTION 5. *Change in Control.*

In the event of a Change in Control, all of your RSUs will immediately vest and convert into shares of MSCI common stock effective on the date of such Change in Control.

SECTION 6. *Termination of Service and Cancellation of Awards.*

(a) *Cancellation of Unvested Awards.* Your unvested RSUs will be canceled and forfeited in full if your service as a Director of the Company terminates for any reason other than under the circumstances set forth in this Award Agreement for death or Disability.

(b) *General Treatment of Vested Awards.* Except as otherwise provided in this Award Agreement or pursuant to any election form submitted in connection with the Deferral Plan, your vested RSUs will convert to shares of MSCI common stock on the Scheduled Vesting Date.

SECTION 7. *Nontransferability.*

You may not sell, pledge, hypothecate, assign or otherwise transfer your RSUs, other than as provided in Section 8 (which allows you to designate a beneficiary or beneficiaries in the event of your death) or by will or the laws of descent and distribution or otherwise as provided for by the Board. This prohibition includes any assignment or other transfer that purports to occur by operation of law or otherwise. During your lifetime, payments relating to the RSUs will be made only to you.

Your personal representatives, heirs, legatees, beneficiaries, successors and assigns, and those of MSCI, shall all be bound by, and shall benefit from, the terms and conditions of your award.

SECTION 8. *Designation of a Beneficiary.*

You may make a written designation of beneficiary or beneficiaries to receive all or part of the shares to be paid under this Award Agreement in the

event of your death. To make a beneficiary designation, you must complete and file the form attached hereto as Appendix A with MSCI's Human Resources Department.

Any shares that become payable upon your death, and as to which a designation of beneficiary is not in effect, will be distributed to your estate.

You may replace or revoke your beneficiary designation at any time. If there is any question as to the legal right of any beneficiary to receive shares under this Award Agreement, MSCI may determine in its sole discretion to deliver the shares in question to your estate. MSCI's determination shall be binding and conclusive on all persons and it will have no further liability to anyone with respect to such shares.

SECTION 9. Ownership and Possession.

(a) *Generally.* Generally, you will not have any rights as a stockholder in the shares of MSCI common stock corresponding to your RSUs prior to conversion of your RSUs.

Prior to conversion of your RSUs, however, you will receive dividend equivalent payments, as set forth in Section 3 of this Award Agreement.

(b) *Following Conversion.* Following conversion of your RSUs you will be the beneficial owner of the net shares issued to you, and you will be entitled to all rights of ownership, including voting rights and the right to receive cash or stock dividends or other distributions paid on the shares.

SECTION 10. Securities Law Compliance Matters.

MSCI may, if it determines it is appropriate, affix any legend to the stock certificates representing shares of MSCI common stock issued upon conversion of your RSUs and any stock certificates that may subsequently be issued in substitution for the original certificates. MSCI may advise the transfer agent to place a stop order against such shares if it determines that such an order is necessary or advisable.

SECTION 11. Compliance with Laws and Regulations.

Any sale, assignment, transfer, pledge, mortgage, encumbrance or other disposition of shares issued upon conversion of your RSUs (whether directly or indirectly, whether or not for value, and whether or not voluntary) must be made in compliance with any applicable constitution, rule, regulation, or policy of any of the exchanges or associations or other institutions with which MSCI has membership or other privileges, and any applicable law, or applicable rule or regulation of any governmental agency, self-regulatory organization or state or federal regulatory body.

SECTION 12. *Consents under Local Law.*

Your award is conditioned upon the making of all filings and the receipt of all consents or authorizations required to comply with, or required to be obtained under, applicable local law.

SECTION 13. *Award Modification.*

MSCI reserves the right to modify or amend unilaterally the terms and conditions of your RSUs, without first asking your consent, or to waive any terms and conditions that operate in favor of MSCI. These amendments may include (but are not limited to) changes that MSCI considers necessary or advisable as a result of changes in any, or the adoption of any new, Legal Requirement. MSCI may not modify your RSUs in a manner that would materially impair your rights in your RSUs without your consent; *provided, however*, that MSCI may, without your consent, amend or modify your RSUs in any manner that MSCI considers necessary or advisable to comply with any Legal Requirement or to ensure that your RSUs are not subject to United States federal, state or local income tax or any equivalent taxes in territories outside the United States prior to payment. MSCI will notify you of any amendment of your RSUs that affects your rights. Any amendment or waiver of a provision of this Award Agreement (other than any amendment or waiver applicable to all recipients generally), which amendment or waiver operates in your favor or confers a benefit on you, must be in writing and signed by the Global Head of Human Resources, the Chief Administrative Officer, the Chief Financial Officer or the General Counsel (or if such positions no longer exist, by the holders of equivalent positions) to be effective.

SECTION 14. *Severability.*

In the event MSCI determines that any provision of this Award Agreement would cause you to be in constructive receipt for United States federal or state income tax purposes of any portion of your award, then such provision will be considered null and void and this Award Agreement will be construed and enforced as if the provision had not been included in this Award Agreement as of the date such provision was determined to cause you to be in constructive receipt of any portion of your award.

SECTION 15. *Governing Law.*

This Award Agreement and the related legal relations between you and MSCI will be governed by and construed in accordance with the laws of the State of New York, without regard to any conflicts or choice of law, rule or principle that might otherwise refer the interpretation of the award to the substantive law of another jurisdiction.

SECTION 16. *Rule of Construction for Timing of Conversion.*

With respect to each provision of this Award Agreement that provides for your RSUs to convert to shares on the Scheduled Vesting Date or upon a different specified event or date, such conversion will be considered to have been timely made, and neither you nor any of your beneficiaries or your estate shall have any claim against the Company for damages based on a delay in payment, and the Company shall have no liability to you (or to any of your beneficiaries or your estate) in respect of any such delay, as long as payment is made by December 31 of the year in which the Scheduled Vesting Date or such other specified event or date occurs, or if later, by the 15th day of the third calendar month following such specified event or date.

SECTION 17. *Defined Terms.*

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

(a) “**Board**” means the Board of Directors of MSCI.

(b) A “**Change in Control**” shall be deemed to have occurred if any of the following conditions shall have been satisfied:

(a) any one person or more than one person acting as a group (as determined under Section 409A), other than (A) any employee plan established by MSCI or any of its Subsidiaries, (B) MSCI or any of its affiliates (as defined in Rule 12b-2 promulgated under the Exchange Act), (C) an underwriter temporarily holding securities pursuant to an offering of such securities, or (D) a corporation owned, directly or indirectly, by stockholders of MSCI in substantially the same proportions as their ownership of MSCI, is or becomes, during any 12-month period, the beneficial owner, directly or indirectly, of securities of MSCI (not including in the securities beneficially owned by such person(s) any securities acquired directly from MSCI or its affiliates other than in connection with the acquisition by MSCI or its affiliates of a business) representing 30% or more of the total voting power of the stock of MSCI; *provided*, however, that the provisions of this subsection (a) are not intended to apply to or include as a Change in Control any transaction that is specifically excepted from the definition of Change in Control under subsection (c) below;

(b) a change in the composition of the Board such that, during any 12-month period, the individuals who, as of the beginning of such period, constitute the Board (the “**Existing Board**”) cease for any reason to constitute at least 50% of the Board; (b); *provided, however*, that any individual becoming a member of the Board subsequent to the beginning of such period whose election, or nomination for election by MSCI’s stockholders, was approved by a vote of at least a majority of the directors immediately prior to the date of such appointment or

election shall be considered as though such individual were a member of the Existing Board; and *provided, further, however*, that, notwithstanding the foregoing, no individual whose initial assumption of office occurs as a result of either an actual or threatened election contest (as such terms are used in Rule 14a-11 or Regulation 14A promulgated under the Exchange Act or successor statutes or rules containing analogous concepts) or other actual or threatened solicitation of proxies or consents by or on behalf of an individual, corporation, partnership, group, associate or other entity or “person” other than the Board, shall in any event be considered to be a member of the Existing Board;

(c) the consummation of a merger or consolidation of the Company with any other corporation or other entity, or the issuance of voting securities in connection with a merger or consolidation of the Company (or any direct or indirect subsidiary of MSCI) pursuant to applicable stock exchange requirements; *provided* that immediately following such merger or consolidation the voting securities of MSCI outstanding immediately prior thereto do not continue to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity of such merger or consolidation or parent entity thereof) 50% or more of the total voting power of MSCI stock (or if the Company is not the surviving entity of such merger or consolidation, 50% or more of the total voting power of the stock of such surviving entity or parent entity thereof); and *provided, further*, that a merger or consolidation effected to implement a recapitalization of MSCI (or similar transaction) in which no person (as determined under Section 409A) is or becomes the beneficial owner, directly or indirectly, of securities of MSCI (not including in the securities beneficially owned by such person any securities acquired directly from MSCI or its affiliates other than in connection with the acquisition by MSCI or its affiliates of a business) representing 50% or more of either the then outstanding shares of MSCI common stock or the combined voting power of MSCI’s then outstanding voting securities shall not be considered a Change in Control; or

(d) the sale or disposition by the Company of all or substantially all of the Company’s assets in which any one person or more than one person acting as a group (as determined under Section 409A) acquires (or has acquired during the 12-month period ending on the date of the most recent acquisition by such person or persons) assets from the Company that have a total gross fair market value equal to more than 50% of the total gross fair market value of all of the assets of the Company immediately prior to such acquisition or acquisitions.

Notwithstanding the foregoing, (1) no Change in Control shall be deemed to have occurred if there is consummated any transaction or series of

integrated transactions immediately following which the record holders of MSCI common stock immediately prior to such transaction or series of transactions continue to have substantially the same proportionate ownership in an entity which owns substantially all of the assets of the Company immediately prior to such transaction or series of transactions and (2) no event or circumstances described in any of clauses (a) through (d) above shall constitute a Change in Control unless such event or circumstances also constitute a change in the ownership or effective control of the Company, or in the ownership of a substantial portion of the Company's assets, as defined in Section 409A and the regulations and guidance thereunder. In addition, no Change in Control shall be deemed to have occurred upon the acquisition of additional control of the Company by any one person or more than one person acting as a group that is considered to effectively control the Company. In no event will a Change in Control be deemed to have occurred if you are part of a "group" within the meaning of Section 13(d)(3) of the Exchange Act that effects a Change in Control.

Terms used in the definition of a Change in Control shall be as defined or interpreted pursuant to Section 409A.

(c) "**Disability**" means any (A) you are unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than twelve months or (B) you, by reason of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than twelve months, are receiving income replacement benefits for a period of not less than three months under an accident and health plan covering employees of the Company.

(d) "**Legal Requirement**" means any law, regulation, ruling, judicial decision, accounting standard, regulatory guidance or other legal requirement.

(e) "**MSCI**" means MSCI Inc., a Delaware corporation.

(f) "**Section 409A**" means Section 409A of the Code, and the rules, regulations and guidance thereunder.

(g) "**Subsidiary**" means (i) a corporation or other entity with respect to which MSCI, directly or indirectly, has the power, whether through the ownership of voting securities, by contract or otherwise, to elect at least a majority of the members of such corporation's board of directors or analogous governing body, or (ii) any other corporation or other entity in which MSCI, directly or indirectly, has an equity or similar interest and which the Committee designates as a Subsidiary for purposes of the Plan.

**Designation of Beneficiary(ies) Under
MSCI Independent Directors' Equity Compensation Plan**

This Designation of Beneficiary shall remain in effect with respect to all awards issued to me under any MSCI equity compensation plan, including any awards that may be issued to me after the date hereof, unless and until I modify or revoke it by submitting a later dated beneficiary designation. This Designation of Beneficiary supersedes all my prior beneficiary designations with respect to all my equity awards.

I hereby designate the following beneficiary(ies) to receive any survivor benefits with respect to all my equity awards:

Beneficiary(ies) Name(s)	Relationship	Percentage
(1)		
(2)		
(3)		
(4)		

Address(es) of Beneficiary(ies):

- (1)
- (2)
- (3)
- (4)

Contingent Beneficiary

Please also indicate any contingent beneficiary and to which beneficiary above such interest relates.

Beneficiary(ies) Name(s)	Relationship	Nature of Contingency
Address(es) of Contingent Beneficiary(ies):		

Name: (please print)

Date:

Signature

Please sign and return this form to MSCI's Human Resources Department.

To the Board of Directors and Shareholders of MSCI Inc.:

We have reviewed, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the unaudited condensed consolidated statement of financial condition of MSCI Inc. and subsidiaries as of March 31, 2012, and the related condensed consolidated statements of income, comprehensive income and cash flows for the three-month periods ended March 31, 2012 and 2011, as indicated in our report dated May 4, 2012; because we did not perform an audit, we expressed no opinion on that information.

We are aware that our report referred to above, which is included in your Quarterly Report on Form 10-Q for the quarter ended March 31, 2012, is incorporated by reference in Registration Statement No. 333-167624 on Form S-8, Registration Statement No. 333-147540 on Form S-8, Registration Statement No. 333-165888 on Form S-8 and Registration Statement No. 333-159311 on Form S-3.

We also are aware that the aforementioned report, pursuant to Rule 436(c) under the Securities Act of 1933, is not considered a part of the Registration Statement prepared or certified by an accountant or a report prepared or certified by an accountant within the meaning of Sections 7 and 11 of that Act.

/s/ Deloitte & Touche LLP

New York, New York
May 4, 2012

SECTION 302 CERTIFICATION

I, Henry A. Fernandez, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of MSCI Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15(d)-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's first fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 4, 2012

/s/ Henry A. Fernandez

Henry A. Fernandez
Chairman, Chief Executive Officer and President
(Principal Executive Officer)

SECTION 302 CERTIFICATION

I, David M. Obstler, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of MSCI Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15(d)-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's first fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 4, 2012

/s/ David M. Obstler

David M. Obstler
Chief Financial Officer
(Principal Financial Officer and
Principal Accounting Officer)

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In accordance with 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, Henry A. Fernandez, Chairman, CEO and President of MSCI Inc. (the "Registrant") and David M. Obstler, the Chief Financial Officer of the Registrant, each hereby certifies that, to the best of his knowledge:

1. The Registrant's Quarterly Report on Form 10-Q for the period ended March 31, 2012, to which this Certification is attached as Exhibit 32.1 (the "Periodic Report"), fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, as amended; and
2. The information contained in the Periodic Report fairly presents, in all material respects, the financial condition of the Registrant at the end of the period covered by the Periodic Report and results of operations of the Registrant for the periods covered by the Periodic Report.

Date: May 4, 2012

/s/ Henry A. Fernandez

Henry A. Fernandez
Chairman, Chief Executive Officer and President
(Principal Executive Officer)

/s/ David M. Obstler

David M. Obstler
Chief Financial Officer
(Principal Financial Officer and
Principal Accounting Officer)