

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 June 30, 2016

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 001-35176

**GLOBAL EAGLE ENTERTAINMENT INC.**

(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

27-4757800  
(I.R.S. Employer Identification Number)

4553 Glencoe Avenue, Suite 300  
Los Angeles, California  
(Address of principal executive offices)

90292  
(Zip Code)

Registrant's telephone number, including area code: (310) 437-6000

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 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  Accelerated filer  Non-accelerated filer  Smaller reporting company

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

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

(Class)

(Outstanding as of August 5, 2016)

COMMON STOCK, \$0.0001 PAR VALUE

83,639,083 SHARES\*

\* Excludes 3,053,634 shares held by a wholly-owned subsidiary of the registrant.

**GLOBAL EAGLE ENTERTAINMENT INC.  
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**PART I — FINANCIAL INFORMATION****GLOBAL EAGLE ENTERTAINMENT INC.**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**  
*(In thousands, except share and per share amounts)*

	<b>June 30, 2016</b>	<b>December 31, 2015</b>
	<i>(Unaudited)</i>	
<b>ASSETS</b>		
<b>CURRENT ASSETS:</b>		
Cash and cash equivalents	\$ 196,709	\$ 223,552
Accounts receivable, net	88,649	93,449
Inventories	18,014	14,998
Prepaid and other current assets	29,675	27,209
<b>TOTAL CURRENT ASSETS:</b>	<b>333,047</b>	<b>359,208</b>
Content library	20,529	16,083
Property, plant and equipment, net	49,422	39,066
Goodwill	93,037	93,796
Intangible assets, net	102,595	117,684
Other non-current assets	16,831	12,024
<b>TOTAL ASSETS</b>	<b>\$ 615,461</b>	<b>\$ 637,861</b>
<b>LIABILITIES AND EQUITY</b>		
<b>CURRENT LIABILITIES:</b>		
Accounts payable and accrued liabilities	\$ 112,514	\$ 112,330
Accrued legal settlements	47,157	6,200
Deferred revenue	6,808	10,449
Warrant liabilities	7,284	24,076
Notes payable and accrued interest, current	731	749
Other current liabilities	13,708	12,111
<b>TOTAL CURRENT LIABILITIES:</b>	<b>188,202</b>	<b>165,915</b>
Deferred tax liabilities, non-current	20,385	22,324
Deferred revenue, non-current	6,050	6,345
Notes payable and accrued interest, non-current	69,730	69,815
Other non-current liabilities	19,774	19,701
<b>TOTAL LIABILITIES</b>	<b>304,141</b>	<b>284,100</b>
<b>COMMITMENTS AND CONTINGENCIES</b>		
<b>EQUITY:</b>		
Preferred stock, \$0.0001 par value; 1,000,000 shares authorized, 0 shares issued and outstanding at June 30, 2016 and December 31, 2015, respectively	—	—
Common stock, \$0.0001 par value; 375,000,000 shares authorized, 81,116,369 and 81,676,390 shares issued, 78,062,735 and 78,622,756 shares outstanding, at June 30, 2016 and December 31, 2015, respectively	8	8
Treasury stock, 3,053,634 shares at June 30, 2016 and December 31, 2015	(30,659)	(30,659)
Additional paid-in capital	686,998	688,696
Subscriptions receivable	(541)	(528)
Accumulated deficit	(344,029)	(303,457)
Accumulated other comprehensive loss	(457)	(299)
<b>TOTAL GLOBAL EAGLE ENTERTAINMENT INC. STOCKHOLDERS' EQUITY</b>	<b>311,320</b>	<b>353,761</b>
<b>TOTAL LIABILITIES AND EQUITY</b>	<b>\$ 615,461</b>	<b>\$ 637,861</b>

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

**GLOBAL EAGLE ENTERTAINMENT INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS (UNAUDITED)**

*(In thousands, except per share amounts)*

	Three Months Ended June 30,		Six Months Ended June 30,	
	2016	2015	2016	2015
Revenue	\$ 112,265	\$ 102,376	\$ 226,082	\$ 202,681
Operating expenses:				
Cost of sales	75,086	66,083	151,854	135,509
Sales and marketing expenses	6,491	4,964	11,163	8,239
Product development	8,416	6,451	17,162	13,681
General and administrative	18,447	17,576	37,667	35,695
Provision for legal settlements	38,142	750	40,143	750
Amortization of intangible assets	7,486	6,005	14,889	11,988
Restructuring charges	—	—	—	302
Total operating expenses	154,068	101,829	272,878	206,164
(Loss) income from operations	(41,803)	547	(46,796)	(3,483)
Other income (expense):				
Interest expense, net	(613)	(583)	(1,417)	(828)
Change in fair value of derivatives	10,926	14,789	16,791	15,743
Other expense, net, including related party loan impairment	(5,934)	(443)	(5,254)	(1,239)
(Loss) income before income taxes	(37,424)	14,310	(36,676)	10,193
Income tax expense	736	1,323	3,896	637
Net (loss) income	\$ (38,160)	\$ 12,987	\$ (40,572)	\$ 9,556
Net (loss) income per common share – basic	\$ (0.49)	\$ 0.17	\$ (0.52)	\$ 0.12
Net (loss) per common share – diluted	\$ (0.49)	\$ (0.02)	\$ (0.52)	\$ (0.08)
Weighted average common shares – basic	78,127	77,111	78,385	76,993
Weighted average common shares – diluted	78,127	78,518	78,385	78,623

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

**GLOBAL EAGLE ENTERTAINMENT INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE (LOSS) INCOME (UNAUDITED)**  
*(In thousands)*

	<b>Three Months Ended June 30,</b>		<b>Six Months Ended June 30,</b>	
	<b>2016</b>	<b>2015</b>	<b>2016</b>	<b>2015</b>
Net (loss) income	\$ (38,160)	\$ 12,987	\$ (40,572)	\$ 9,556
Other comprehensive (loss) gain:				
Unrealized foreign currency translation (losses) gains	(74)	39	(158)	(189)
Other comprehensive (loss) gain	(74)	39	(158)	(189)
Comprehensive (loss) income	\$ (38,234)	\$ 13,026	\$ (40,730)	\$ 9,367

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

**GLOBAL EAGLE ENTERTAINMENT INC.**  
**CONDENSED CONSOLIDATED STATEMENT OF STOCKHOLDERS' EQUITY (UNAUDITED)**

*(In thousands)*

	Common Stock		Treasury Stock		Additional Paid-in Capital	Subscriptions Receivable	Accumulated Deficit	Accumulated Other Comprehensive Loss	Total Stockholders' Equity
	Shares	Amount	Shares	Amount					
Balance at December 31, 2015	81,676	\$ 8	(3,054)	\$(30,659)	\$ 688,696	\$ (528)	\$ (303,457)	\$ (299)	\$ 353,761
Repurchase and retirement of common stock	(614)	—	—	—	(5,219)	—	—	—	(5,219)
Exercise of stock options	26	—	—	—	254	—	—	—	254
Restricted stock units vested and distributed, net of tax	28	—	—	—	(119)	—	—	—	(119)
Purchase of subsidiary shares from non-controlling interests	—	—	—	—	(876)	—	—	—	(876)
Stock-based compensation	—	—	—	—	4,262	—	—	—	4,262
Interest income on subscription receivable	—	—	—	—	—	(13)	—	—	(13)
Other comprehensive income	—	—	—	—	—	—	—	(158)	(158)
Net loss	—	—	—	—	—	—	(40,572)	—	(40,572)
Balance at June 30, 2016	81,116	\$ 8	(3,054)	\$(30,659)	\$ 686,998	\$ (541)	\$ (344,029)	\$ (457)	\$ 311,320

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

**GLOBAL EAGLE ENTERTAINMENT INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS (UNAUDITED)**

*(In thousands)*

	<b>Six Months Ended June 30,</b>	
	<b>2016</b>	<b>2015</b>
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>		
Net (loss) income	\$ (40,572)	\$ 9,556
Adjustments to reconcile net (loss) income to net cash provided by operating activities:		
Depreciation and amortization	21,595	16,345
Non-cash interest expense, net	424	281
Change in fair value of derivative financial instrument	(16,792)	(15,743)
Stock-based compensation	4,262	4,102
Impairment of related party loan	4,516	—
Deferred income taxes	(1,839)	(7,326)
Other	454	265
Changes in operating assets and liabilities:		
Accounts receivable	5,338	(2,533)
Inventory and content library	(5,105)	(4,128)
Prepaid expenses and other assets	(2,981)	(1,042)
Deposits and other assets	(4,214)	474
Accounts payable and accrued expenses	37,919	1,372
Deferred revenue	(3,936)	(262)
Other liabilities	1,597	3,183
<b>NET CASH PROVIDED BY OPERATING ACTIVITIES</b>	<b>666</b>	<b>4,544</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>		
Purchases of property and equipment	(17,579)	(4,979)
Issuance of loan to related party	(4,400)	—
Purchase of investments	(7,669)	—
Net proceeds from sale of available for sale securities	7,738	—
<b>NET CASH USED IN INVESTING ACTIVITIES</b>	<b>(21,910)</b>	<b>(4,979)</b>
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>		
Proceeds from issuance of convertible senior notes	—	81,250
Repayments of notes payable	(425)	(433)
Proceeds from the exercise of common stock options and warrants	134	5,504
Purchase of common stock	(5,219)	—
Convertible senior note issuance fees	—	(831)
Other financing activities, net	—	(476)
<b>NET CASH (USED IN) PROVIDED BY FINANCING ACTIVITIES</b>	<b>(5,510)</b>	<b>85,014</b>
Effects of exchange rate movements on cash and cash equivalents	(89)	225
Net (decrease) increase in cash and cash equivalents	(26,843)	84,804
<b>CASH AND CASH EQUIVALENTS AT BEGINNING OF PERIOD</b>	<b>223,552</b>	<b>197,648</b>
<b>CASH AND CASH EQUIVALENTS AT END OF PERIOD</b>	<b>\$ 196,709</b>	<b>\$ 282,452</b>

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

Global Eagle Entertainment Inc.  
Notes to Condensed Consolidated Financial Statements (Unaudited)

**Note 1. Business**

Global Eagle Entertainment Inc. ("GEE") is a Delaware corporation headquartered in Los Angeles, California. GEE and its consolidated subsidiaries are referred collectively herein as the "Company". The Company's business primarily focuses on providing Wi-Fi Internet Connectivity and Content to the travel industry.

**Connectivity**

The Company's Connectivity service offering provides its customers and their passengers with operational solutions and Wi-Fi connectivity over Ku-band satellite transmissions. The Company's Connectivity segment offers (i) specialized network equipment, media applications and premium content services that allow passengers to access in-flight Internet, live television, on-demand content, shopping and travel-related information and (ii) operational solutions that allow customers to improve their internal operation management.

**Content**

The Company's Content service offering selects, manages, provides lab services and distributes wholly-owned and licensed media content, video and music programming, advertising, applications and video games to airlines, as well as to the maritime and other "away from home" non-theatrical markets.

**Note 2. Basis of Presentation and Summary of Significant Accounting Policies**

The following is a summary of the significant accounting policies consistently applied in the preparation of the accompanying condensed consolidated financial statements.

***Basis of Presentation***

The accompanying interim condensed consolidated balance sheet as of June 30, 2016, the condensed consolidated statements of operations and the condensed consolidated statements of comprehensive (loss) income for the three and six month periods ended June 30, 2016 and 2015, the condensed consolidated statements of cash flows for the six month periods ended June 30, 2016 and 2015, and the condensed consolidated statement of stockholders' equity for the six month period ended June 30, 2016, are unaudited.

In the opinion of the Company's management, the unaudited interim condensed consolidated financial statements have been prepared on the same basis as the Company's audited consolidated financial statements for the year ended December 31, 2015, and include all adjustments, which include only normal recurring adjustments, necessary for the fair presentation of the Company's condensed consolidated balance sheet as of June 30, 2016, its condensed consolidated statements of operations for the three and six month periods ended June 30, 2016 and 2015 and its condensed consolidated statements of cash flows for the six month periods ended June 30, 2016 and 2015. The results for the six month period ended June 30, 2016 are not necessarily indicative of the results expected for the full 2016 year. The consolidated balance sheet as of December 31, 2015 has been derived from the Company's audited financial statements included in the Company's Annual Report on Form 10-K filed with the Securities and Exchange Commission ("SEC") on March 17, 2016 (the "2015 Form 10-K"). The presentation of the provision for legal settlements included in the condensed consolidated statements of operations for the three and six month periods ended June 30, 2015 and the presentation of accrued legal settlements included in the condensed consolidated balance sheet as of December 31, 2015 have been reclassified to conform to the current year presentation. In addition, the Company made an immaterial correction pertaining to the classification of its content library as of December 31, 2015. As a result, the Company reclassified the presentation of its current content library of \$12.3 million to non-current assets.

The interim unaudited condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States ("GAAP") for interim financial information and with the instructions to SEC Form 10-Q and Article 10 of SEC Regulation S-X. They do not include all of the information and footnotes required by GAAP for complete financial statements. Therefore, these financial statements should be read in conjunction with the Company's audited consolidated financial statements and notes thereto included in the Company's 2015 Form 10-K.

### ***Principles of Consolidation***

The unaudited condensed consolidated financial statements include the accounts of the Company and its wholly-owned and majority-owned subsidiaries. Acquisitions are included in the Company's condensed consolidated financial statements from the date of the applicable acquisition. The Company's purchase accounting for acquisitions resulted in all assets and liabilities of acquired businesses being recorded at their estimated fair values on the relevant acquisition date. All intercompany balances and transactions have been eliminated in consolidation.

Investments that the Company has the ability to control, and where it is the primary beneficiary, are consolidated. Investments in affiliates over which the Company has the ability to exert significant influence, but do not control and where the Company is not the primary beneficiary, are accounted for using the equity method of accounting. Investments in affiliates for which the Company has no ability to exert significant influence are accounted for using the cost method of accounting. The Company had no such affiliates for the six months ended June 30, 2016.

### ***Use of Estimates***

The preparation of the Company's consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenue (allocated on the basis of the relative selling price of deliverables) and expenses during the reporting period. Significant items subject to such estimates and assumptions include revenue, allowance for doubtful accounts, the assigned value of acquired assets and assumed and contingent liabilities associated with business combinations, legal settlements, valuation of media content library and equipment inventory, useful lives and impairment of property and equipment, intangible assets, goodwill and other assets, the fair value of the Company's equity-based compensation awards and convertible debt instruments, and deferred income tax assets and liabilities. Actual results could differ materially from those estimates. On an ongoing basis, the Company evaluates its estimates compared to historical experience and trends, which form the basis for making judgments about the carrying value of assets and liabilities.

### ***Segments of the Company***

The Company reports its operations under two segments, Connectivity and Content. The Company's Connectivity segment provides customers and their passengers with Wi-Fi connectivity over Ku-band satellite transmissions. This segment, to a lesser extent, also provides airlines with operations data solutions. The Company's Content segment selects, manages, and distributes owned and licensed media content, certain digital media offerings, video and music programming, applications, and video games to the airline, maritime and non-theatrical markets.

The decision to report under two segments is principally based upon how the Company's chief operating decision maker ("CODM") manages the Company's operations as two segments for purposes of evaluating financial performance and allocating resources. The CODM reviews revenue, cost of sales expense, and contribution profit information separately for the Company's Connectivity and Content segments. Total segment contribution profit provides the CODM, investors and equity analysts a measure to analyze operating performance of each of the Company's business segments and its enterprise value against historical data and competitors' data, although historical results may not be indicative of future results, as operating performance is highly contingent on many factors, including customer tastes and preferences. All other financial information is reviewed by the CODM on a consolidated basis.

Segment revenue, expenses and contribution profit for the three and six month periods ended June 30, 2016 and 2015 derived from the Company's Content and Connectivity segments were as follows (in thousands):

Global Eagle Entertainment Inc.  
Notes to Condensed Consolidated Financial Statements (Unaudited)

**Three Months Ended June 30,**

	2016			2015		
	Content	Connectivity	Consolidated	Content	Connectivity	Consolidated
<b>Revenue:</b>						
Licensing and services	\$ 78,710	\$ 27,170	\$ 105,880	\$ 73,814	\$ 24,563	\$ 98,377
Equipment	—	6,385	6,385	—	3,999	3,999
<b>Total Revenue</b>	<b>78,710</b>	<b>33,555</b>	<b>112,265</b>	<b>73,814</b>	<b>28,562</b>	<b>102,376</b>
<b>Operating Expenses:</b>						
Cost of Sales						
Licensing and services	52,940	17,195	70,135	48,047	14,378	62,425
Equipment	—	4,951	4,951	—	3,658	3,658
<b>Total cost of sales</b>	<b>52,940</b>	<b>22,146</b>	<b>75,086</b>	<b>48,047</b>	<b>18,036</b>	<b>66,083</b>
<b>Contribution Profit</b>	<b>25,770</b>	<b>11,409</b>	<b>37,179</b>	<b>25,767</b>	<b>10,526</b>	<b>36,293</b>
Other Operating Expenses			78,982			35,746
<b>(Loss) Income from Operations</b>			<b>\$ (41,803)</b>			<b>\$ 547</b>

**Six Months Ended June 30,**

	2016			2015		
	Content	Connectivity	Consolidated	Content	Connectivity	Consolidated
<b>Revenue:</b>						
Licensing and services	\$ 162,316	\$ 51,395	\$ 213,711	\$ 145,463	\$ 46,764	\$ 192,227
Equipment	—	12,371	12,371	—	10,454	10,454
<b>Total revenue</b>	<b>162,316</b>	<b>63,766</b>	<b>226,082</b>	<b>145,463</b>	<b>57,218</b>	<b>202,681</b>
<b>Operating expenses:</b>						
Cost of sales						
Licensing and services	108,577	32,952	141,529	98,049	28,076	126,125
Equipment	—	10,325	10,325	—	9,384	9,384
<b>Total Cost of sales</b>	<b>108,577</b>	<b>43,277</b>	<b>151,854</b>	<b>98,049</b>	<b>37,460</b>	<b>135,509</b>
<b>Contribution profit</b>	<b>53,739</b>	<b>20,489</b>	<b>74,228</b>	<b>47,414</b>	<b>19,758</b>	<b>67,172</b>
Other operating expenses			121,024			70,655
<b>Loss from operations</b>			<b>\$ (46,796)</b>			<b>\$ (3,483)</b>

**Revenue Recognition**

The Company recognizes revenue when four basic criteria are met: persuasive evidence of a sales arrangement exists; performance of services has occurred; the sales price is fixed or determinable; and collectability is reasonably assured. The Company considers persuasive evidence of a sales arrangement to be the receipt of a signed contract or standard purchase order. Collectability is assessed based on a number of factors, including transaction history and the credit worthiness of a customer. If it is determined that the collection is not reasonably assured, revenue is not recognized until collection becomes reasonably assured, which is generally upon receipt of cash. The Company records cash received in advance of revenue recognition as deferred revenue.

For arrangements with multiple deliverables, the Company allocates revenue to each deliverable if the delivered item(s) has value to the customer on a standalone basis and, if the arrangement includes a general right of return relative to the delivered item, delivery or performance of the undelivered item(s) is considered probable and substantially in the control of the Company. The fair value of the selling price for a deliverable is determined using a hierarchy of (1) Company-specific objective and reliable evidence, then (2) third-party evidence, then (3) best estimate of selling price. The Company allocates any arrangement fee to each of the elements based on their relative selling prices.

When the Company enters into revenue sharing arrangements where it acts as the primary obligor, the Company recognizes the underlying revenue on a gross basis. In determining whether to report revenue gross for the amount of fees received from its customers, the Company assesses whether it maintains the principal relationship, whether it bears credit risk and whether it has latitude in establishing prices with the customers, among other factors.

The Company's revenue is principally derived from the following services:

#### **Connectivity**

*Equipment Revenue.* Equipment revenue is recognized when title and risk pass to the buyer, which is generally upon shipment or arrival at destination depending on the contractual arrangement with the customer. In determining whether an arrangement exists, the Company ensures that a binding arrangement is in place, such as a standard purchase order or a fully executed customer-specific agreement. In cases where a customer has the contractual ability to accept or return equipment within a specific time frame, the Company will provide for return reserves when and if necessary, based upon historical experience.

In certain cases where the Company sells its equipment on a stand-alone basis, it may charge a fee for obtaining Supplemental Type Certificates ("STC") obtained from the Federal Aviation Administration, which allow its equipment to operate on certain model/type of aircraft. To the extent that the Company contracts to charge STC fees in equipment-only sales, the Company will record these fees as revenue. The Company recognized STC fee revenue of \$0.7 million during the three and six months ended June 30, 2016. No STC fee revenue was recognized during the three and six months ended June 30, 2015.

Included in equipment revenue are certain deferred obligations that exist pursuant to the Company's contractual arrangements, which typically include, but are not limited to, technical support, regulatory support, network support and installation support. These support-based arrangements are customarily bundled with the Company's contracts and are accounted for as a single unit of account. To the extent that these support services have value on a standalone basis, the Company allocates revenue to each element in the arrangement based upon their relative fair values. Fair value is determined based upon the best estimate of the selling price, and the fair value of undelivered elements is deferred and recognized over the performance or contractual period and is included in equipment revenue. The most significant of the deferred obligations typically is network support, which includes 24/7 operational support for customers for which the Company incurs significant and periodic external and internal costs to deliver on a daily basis.

*Service Revenue.* Connectivity service revenue includes in-flight Wi-Fi Internet services, live television, on-demand content, music streaming, shopping and click-through advertising revenue from travel-related information. Service revenue is recognized after it has been rendered and the customer can use the service, which customarily is in the form of (i) enplanement for boarded passengers, (ii) usage by passengers, depending upon the specific customer contract, and/or (iii) other revenues such as advertising sponsorship. The Company assesses whether performance criteria have been met and whether its service fees are fixed or determinable based on a reconciliation of the performance criteria and an analysis of the payment terms associated with the customer transaction. The reconciliation of the performance criteria generally includes a comparison of third-party performance data to the contractual performance obligation and to internal or customer performance data in circumstances where that data is available.

In certain cases, the Company records service revenue based on available and preliminary information from its network operations. Amounts collected on the related receivables may vary from reported information based upon third party refinement of estimated and reported amounts owed that typically occurs within thirty days of the end of the period end. For all periods presented, the difference between the amounts recognized based on preliminary information and cash collected was not material.

#### **Content**

*Licensing Revenue.* Content licensing revenue is principally generated through the sale or license of media content, video and music programming, applications, and video games to customers, maritime and non-theatrical markets, and to a lesser extent through various services such as encoding and editing of media content. Revenue from the sale or license of content is recognized when the content has been delivered and the contractual performance obligations have been fulfilled, generally at the time a customer's license period begins. For arrangements in which the license period commences after the delivery of content, revenue is not recognized until the license period commences even if delivery and performance obligations have already occurred. In certain

cases, the Company estimates licensing revenues from airline customers. The Company believes it has the ability to reasonably estimate the amounts that will ultimately be collected and therefore recognizes these amounts when earned.

*Services Revenue.* Content services, such as technical services, delivery of digital media advertising, the encoding of video products, development of graphical interfaces or the provision of materials, are billed and revenue is recognized as services are performed and/or when the committed advertisement impressions have been delivered. Obligations pursuant to the Company's advertising revenue arrangements typically include a minimum number of impressions or the satisfaction of other performance criteria. Revenue from performance-based arrangements is recognized as the related performance criteria are met. We assess whether performance criteria have been met and whether the fees are fixed or determinable based on a reconciliation of the performance criteria and an analysis of the payment terms associated with the transaction. The reconciliation of the performance criteria generally includes a comparison of third-party performance data to the contractual performance obligation and to internal or customer performance data in circumstances where that data is available. Where we enter into revenue-sharing arrangements with our customers, such as those relating to our advertising on airplanes and in airline lounges, and when we are considered the primary obligor, we report the underlying revenue on a gross basis in our consolidated statements of operations, and record these revenue-sharing payments to our customers in service costs.

### ***Costs of Sales***

#### **Connectivity**

Connectivity costs of sales consist primarily of equipment fees paid to third-party manufacturers, certain revenue recognized by the Company and shared with its customers or partners as a result of revenue-sharing arrangements, Internet connection and satellite charges and other platform operating expenses associated with the Company's Connectivity business, including depreciation of internally developed software, website development costs, hardware and services used to build and operate the Company's Connectivity platform, and personnel costs relating to information technology.

#### **Content**

Content cost of sales consist primarily of the costs to license or purchase media content, and direct costs to service content for the airlines. Included in Content cost of sales is amortization expense associated with the purchase of film content libraries acquired in business combinations and in the ordinary course of business of \$0.1 million for the six months ended June 30, 2015. There was no amortization expense included in Content cost of sales associated with the purchase of film content libraries acquired in business combinations for the three and six months ended June 30, 2016.

#### ***Sales and marketing***

Sales and marketing expense is primarily comprised of personnel costs related to the Company's sales and marketing staff, advertising costs, including promotional events and other brand building and product marketing expenses, corporate communications, certain professional fees, occupancy costs and travel expenses.

Advertising costs are expensed as incurred. Advertising expenses for the three and six months ended June 30, 2016 and 2015 were not material.

#### ***Product Development***

Product research and software development costs, other than certain internal-use software costs qualifying for capitalization, are expensed as incurred. Costs of computer software or websites developed or obtained for internal use that are incurred in the preliminary project and post implementation stages are expensed as incurred. Certain costs of developing internal-use software incurred during the application and development stage, which include employee and outside consulting compensation and related expenses, costs of computer hardware and software, website development costs and costs incurred in developing additional features and functionality of the services, are capitalized. The estimated useful life of costs capitalized is evaluated for each specific project. Capitalized costs are generally amortized using the straight-line method over a three year estimated useful life, beginning in the period in which the software is ready for its intended use. Unamortized amounts are included in property and equipment, net in the accompanying condensed consolidated balance sheets. Capitalized software development costs

totaled \$3.1 million and \$4.2 million for the three and six months ended June 30, 2016, respectively, and \$1.0 million and \$1.7 million for the three and six months ended June 30, 2015, respectively.

The Company's product development expenditures are focused on developing new products and services, and obtaining STCs as required by the Federal Aviation Administration for each model/type of aircraft prior to providing Connectivity services. To the extent that the Company is contracted to obtain STCs, and customers reimburse these costs, the Company will record these reimbursements directly against its product development expenses.

#### ***Stock-Based Compensation***

Stock-based compensation cost is measured at the grant date based on the fair value of the award and is recognized as an expense over the requisite service period, which is the vesting period, on a straight-line basis. The Company uses the Black-Scholes option pricing model to determine the grant date fair value of stock options. This model requires the Company to estimate the expected volatility and the expected term of the stock options which are highly complex and subjective variables. The variables take into consideration, among other things, actual and projected employee stock option exercise behavior. The Company uses an expected volatility of its stock price during the expected life of the options that is based on the historical performance of the Company's stock price as well as including an estimate using similar companies. Expected term is computed using the simplified method as the Company's best estimate given its lack of actual exercise history. The Company has selected a risk-free rate based on the implied yield available on U.S. Treasury securities with a maturity equivalent to the expected term of the stock. Stock-based awards are comprised principally of stock options and restricted stock units ("RSUs").

Stock option awards issued to non-employees are accounted for at fair value determined using the Black-Scholes option-pricing model. Management believes that the fair value of the stock options is more reliably measured than the fair value of the services received. The fair value of each non-employee stock-based compensation award is re-measured each period until performance is completed, which generally is on each vesting date.

#### ***Stock Repurchases***

Shares of the Company's stock repurchased by the Company are accounted for when the transaction is settled. Repurchased shares held for future issuance are classified as treasury stock. Shares formally or constructively retired are deducted from common stock at par value and from additional paid in capital for the excess of cash paid over par value. If additional paid in capital has been exhausted, the excess over par value is deducted from retained earnings. Direct costs incurred to acquire the shares are included in the total cost of the repurchased shares.

#### ***Cash and Cash Equivalents***

The Company considers all highly liquid investments purchased with an initial maturity of 90 days or less to be cash equivalents.

#### ***Restricted Cash***

The Company maintains certain letters of credit agreements with its customers which are secured by the Company's cash for periods of less than one year and up to three years. As of June 30, 2016 and December 31, 2015, the Company had restricted cash of \$4.0 million and \$4.4 million, respectively. As of June 30, 2016 and December 31, 2015, there was \$1.0 million and \$2.3 million, respectively, of restricted cash included in other current assets in the condensed consolidated balance sheets. As of June 30, 2016 and December 31, 2015, there was \$3.0 million and \$2.1 million of restricted cash included in other non-current assets, respectively, in the condensed consolidated balance sheets.

#### ***Investment securities***

Marketable investment securities, all of which are considered available-for-sale and, accordingly, are stated at fair value based on market quotes. Unrealized gains and losses, net of deferred taxes, have not been significant and are recorded as a component of other comprehensive income.

#### ***Long-Lived Assets***

The Company evaluates the recoverability of its long-lived assets with finite useful lives, including its infinite lived intangible assets acquired in business combinations, for impairment when events or changes in circumstances indicate that the carrying amount of an asset group may not be recoverable. Such trigger events or changes in circumstances may include: a significant decrease in the market price of a long-lived asset, a significant adverse change in the extent or manner in which a long-lived asset is being used, significant adverse change in legal factors or in the business climate, including those resulting from technology advancements in the industry, the impact of competition or other factors that could affect the value of a long-lived asset, a significant adverse deterioration in the amount of revenue or cash flows we expect to generate from an asset group, an accumulation of costs significantly in excess of the amount originally expected for the acquisition or development of a long-lived asset, current or future operating or cash flow losses that demonstrate continuing losses associated with the use of a long-lived asset, or a current expectation that, more likely than not, a long-lived asset will be sold or otherwise disposed of significantly before the end of its previously estimated useful life. The Company performs impairment testing at the asset group level that represents the lowest level for which identifiable cash flows are largely independent of the cash flows of other assets and liabilities. If events or changes in circumstances indicate that the carrying amount of an asset group may not be recoverable and the expected undiscounted future cash flows attributable to the asset group are less than the carrying amount of the asset group, an impairment loss equal to the excess of the asset's carrying value over its fair value is recorded. Fair value is determined based upon estimated discounted future cash flows. During the three and six months ended June 30, 2016, the Company recorded an impairment loss of approximately \$0.9 million. Assets to be disposed of would be separately presented on the balance sheets and reported at the lower of their carrying amount or fair value less costs to sell, and would no longer be depreciated or amortized.

### ***Inventory***

*Equipment inventory.* Equipment inventory, which is classified as finished goods, is comprised of individual equipment parts and assemblies and are stated at the lower of cost or market. The Company provides inventory write-downs based on excess and obsolete inventories determined primarily by future demand forecasts. The write-down is measured as the difference between the cost of the inventory and market, based upon assumptions about future demand and charged to the provision for inventory, which is a component of cost of goods sold. At the point of the loss recognition, a new, lower cost basis for that inventory is established, and subsequent changes in facts and circumstances do not result in the restoration or increase in that newly established cost basis.

At June 30, 2016 and December 31, 2015, there was approximately \$7.2 million and \$7.8 million, respectively, of deferred equipment costs included in inventory and other non-current assets. The deferred equipment costs pertain to certain costs expended in advance of services for certain airlines, and are being amortized ratably over the underlying terms of the agreements through 2020.

The Company generally is not directly responsible for warranty costs related to equipment it sells to its customers. The vendors that supply each of the individual parts, which comprise the assemblies sold by the Company to customers, are responsible for equipment warranty directly to the customer.

### ***Content Library***

The useful life of licensed film rights within the content library corresponds to the respective period over which the film rights will be licensed and generate revenues. Licensed film rights are amortized ratably over their expected revenue streams and included in cost of sales in the condensed consolidated statements of operations. Certain film rights in the Company's portfolio may be used in perpetuity under certain conditions.

Additions to the content library represent minimum guaranteed amounts or flat fees to acquire the distribution film rights from film studios. Amounts owed in excess of the capitalized minimum guarantees are expensed and accrued as a liability when the Company's revenues from exploiting the film right have fully recouped the minimum guarantee based on the contractual royalty rates.

The content library is tested for impairment periodically, but no less than annually. Considering the marketability of the given film right, an impairment loss is recognized as necessary. If the estimated future cash flows for a given film right are lower than its carrying amount as of the reporting date, an impairment loss is recognized in such period.

***Property, Plant, & Equipment, net***

Property, plant and equipment is measured at cost less accumulated depreciation and/or impairment losses. Straight-line depreciation is based on the underlying assets' useful lives. The estimated useful life of technical and operating equipment is three to 10 years. Leasehold improvements are amortized on the straight-line method over the shorter of the remaining lease term or estimated useful life of the asset. Buildings are amortized on the straight-line method over 30 years.

Upon the sale or retirement of property or equipment, the cost and related accumulated depreciation or amortization are removed from the Company's financial statements with the resulting gain or loss reflected in the Company's results of operations. Repairs and maintenance costs are expensed as incurred.

In 2013, the Company capitalized on its balance sheet the costs of certain Connectivity equipment installed on aircraft of a single customer to facilitate expanded services over a five-year use period, as the Company retains legal title to the equipment. The Company is amortizing this equipment over its five-year useful life period.

In 2016, the Company began installing certain connectivity equipment under an agreement entered into with a customer in 2015. Under this agreement, legal title of the equipment is transferred upon delivery but sales are not recognized for accounting purposes because the risks and rewards of ownership are not fully transferred due to our continuing involvement with the equipment, the term of our agreement with the airline and restrictions in the agreement regarding the airline's use of the equipment. The Company also takes possession of the equipment upon the end of the term. The Company accounts for these equipment transactions as operating leases. The assets are recorded as property, plant and equipment, net on our condensed consolidated balance sheet. The Company will begin depreciating the assets when they are ready for their intended use and depreciate them over the 10-year term of the agreement which approximates the expected useful lives of the equipment.

***Intangible Assets and Goodwill***

The Company performs valuations of assets acquired and liabilities assumed on each acquisition accounted for as a business combination, and allocates the purchase price of each acquired business to its respective net tangible and intangible assets. Acquired intangible assets principally include customer relationships and technology. The Company determines the appropriate useful life by performing an analysis of expected cash flows based on historical experience of the acquired businesses. Intangible assets are amortized over their estimated useful lives using the straight-line method, which approximates the pattern in which the majority of the economic benefits are expected to be consumed.

Goodwill represents the excess of the cost of an acquired entity over the fair value of the acquired net assets. Goodwill is not amortized, instead it is tested for impairment annually or when events or circumstances change that would indicate that goodwill might be impaired. Events or circumstances that could trigger an impairment review include, but are not limited to, a significant adverse change in legal factors or in the business climate, an adverse action or assessment by a regulator, unanticipated competition, a loss of key personnel, significant changes in the manner of the Company's use of the acquired assets or the strategy for the Company's overall business, significant negative industry or economic trends or significant under-performance relative to expected historical or projected future results of operations.

Goodwill is tested for impairment at the reporting unit level, which is one level below or the same as an operating segment. The Company determined that it has two reporting units, Content and Connectivity. When testing goodwill for impairment, the Company first performs a qualitative assessment to determine whether it is necessary to perform step one of a two-step annual goodwill impairment test for each reporting unit. The Company is required to perform step one only if it concludes that it is more likely than not that a reporting unit's fair value is less than its carrying value. Should this be the case, the first step of the two-step process is to identify whether a potential impairment exists by comparing the estimated fair values of the Company's reporting units with their respective book values, including goodwill. If the estimated fair value of the reporting unit exceeds book value, goodwill is considered not to be impaired, and no additional steps are necessary. If, however, the fair value of the reporting unit is less than book value, then the second step is performed to determine if goodwill is impaired and to measure the amount of impairment loss, if any. The amount of the impairment loss is the excess of the carrying amount of the goodwill over its implied fair value. The estimate of implied fair value of goodwill is primarily based on an estimate of the discounted cash flows expected to result from that reporting unit, but may require valuations of certain internally generated and unrecognized intangible assets such as the Company's software, technology, patents and trademarks. If the carrying amount of goodwill exceeds the implied fair value of that goodwill, an impairment loss is recognized in an amount equal to the excess.

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As of June 30, 2016, of the \$93.0 million total goodwill, \$72.4 million and \$20.6 million was attributed to the Company's Content and Connectivity segments, respectively. The Company's most recent annual impairment analysis was performed in the fourth quarter of the year ended December 31, 2015 and indicated that there was no impairment of goodwill at that time. The Company did not recognize any impairment losses associated with its goodwill during the six months ended June 30, 2016.

***Business Acquisitions***

The Company accounts for acquisitions of businesses using the purchase method of accounting where the cost is allocated to the underlying net tangible and intangible assets acquired, based on their respective estimated fair values. The excess of the purchase price over the estimated fair values of the net assets acquired is recorded as goodwill. Determining the fair value of certain acquired assets and liabilities is subjective in nature and often involves the use of significant estimates and assumptions, including, but not limited to, the selection of appropriate valuation methodology, projected revenue, expenses and cash flows, weighted average cost of capital, discount rates, estimates of advertiser and publisher turnover rates and estimates of terminal values. Additionally, any non-controlling interests in an acquired business are recorded at their acquisition date fair values. Business acquisitions are included in the Company's condensed consolidated financial statements as of the date of the acquisition.

***Deferred Revenue and Costs***

Deferred revenue consists substantially of amounts received from customers in advance of the Company's performance service period and fees deferred for future support services. Deferred revenue is recognized as revenue on a systematic basis that is proportionate to the period that the underlying services are rendered, which in certain arrangements is straight line over the remaining contractual term or estimated customer life of an agreement.

In the event the Company sells its equipment at or below its cost, and a portion of the related equipment revenue was allocated to other elements in the arrangement, the Company will defer an equal amount of such equipment costs on its balance sheets. Deferred costs are amortized to expense concurrent with the recognition of the related revenue and the expense is included in cost of sales.

***Net (Loss) Income Per Share***

Basic (loss) income per share (EPS) is computed using the weighted-average number of common shares outstanding during the period. Diluted (loss) income per share is computed using the weighted-average number of common shares and the dilutive effect of contingent shares outstanding during the period. Potentially dilutive contingent shares, which primarily consist of stock options, restricted stock units, liability warrants, warrants issued to third parties and accounted for as equity instruments and convertible senior notes, have been excluded from the diluted (loss) income per share calculation because their effect is anti-dilutive. As illustrated in the table below, the change in the fair value of the Company's warrants, which are assumed to be converted into the Company's common stock upon exercise, are adjusted to net income for purposes of computing dilutive loss per share for the three and six months ended June 30, 2015. Common shares to be issued upon the exercise of warrant instruments classified as liabilities are included in the calculation of diluted loss per share when dilutive.

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The computation for basic and diluted EPS was as follows (in thousands, except per share data):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2016	2015	2016	2015
Net (loss) income (numerator):				
Net (loss) income for basic EPS	\$ (38,160)	\$ 12,987	\$ (40,572)	\$ 9,556
Less: adjustment for change in fair value on warrants liability for diluted EPS after assumed exercise of warrants liability				
	—	14,789	—	15,743
Net loss for dilutive EPS	<u>\$ (38,160)</u>	<u>\$ (1,802)</u>	<u>\$ (40,572)</u>	<u>\$ (6,187)</u>
Shares (denominator):				
Weighted-average shares for basic EPS	78,127	77,111	78,385	76,993
Effect of assumed exercise of warrants liability	—	1,407	—	1,630
Adjusted weighted-average share for diluted EPS	<u>78,127</u>	<u>78,518</u>	<u>78,385</u>	<u>78,623</u>
Basic (loss) income per share				
	<u>\$ (0.49)</u>	<u>\$ 0.17</u>	<u>\$ (0.52)</u>	<u>\$ 0.12</u>
Diluted loss per share				
	<u>\$ (0.49)</u>	<u>\$ (0.02)</u>	<u>\$ (0.52)</u>	<u>\$ (0.08)</u>

Securities not included in the calculation of diluted (loss) income per share were as follows (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2016	2015	2016	2015
Employee stock options	6,139	3,234	5,919	2,926
Restricted stock units	602	51	397	36
Non-employee stock options	—	1	—	3
Equity warrants <sup>(1)</sup>	1,164	489	1,165	513
Liability warrants <sup>(2)</sup>	6,173	—	6,173	—
Convertible notes	4,447	4,447	4,447	3,261

(1) Legacy Row 44 warrants originally issuable for Row 44 common stock and Row 44 Series C preferred stock.

(2) Warrants issued in our initial public offering to non-sponsor shareholders ("Public SPAC Warrants").

**Foreign Currency**

As of June 30, 2016, the vast majority of the Company's foreign subsidiaries' customers are airlines and major U.S.-based studios. As the standard currency of transacting for service revenue and related costs of the worldwide airline industry is the U.S. Dollar, the Company concluded that the financial position and results of operations of the majority of its foreign subsidiaries are determined using the U.S. Dollar currency as the functional currency through June 30, 2016. Current or liquid assets and liabilities of these subsidiaries are remeasured at the exchange rate in effect at each period end. Long term assets such as goodwill, purchased intangibles and property and equipment are remeasured at historical exchange rates. The vast majority of the income statement accounts are remeasured at the spot rate, with the exception of amortization and depreciation expense, which are remeasured using historical exchange rates. Adjustments arising from the fluctuations in exchange rates for the remeasurement of financial statements from period to period are included in the condensed consolidated statements of operations.

***Income Taxes***

Deferred income tax assets and liabilities are recognized for temporary differences between the financial statement carrying amounts of assets and liabilities and the amounts that are reported in the income tax returns. Deferred taxes are evaluated for realization on a jurisdictional basis. The Company records valuation allowances to reduce deferred tax assets to the amount that is more likely than not to be realized. In making this assessment, management analyzes future taxable income, reversing temporary differences and ongoing tax planning strategies. Should a change in circumstances lead to a change in judgment about the realizability of deferred tax assets in future years, the Company will adjust related valuation allowances in the period that the change in circumstances occurs, along with a corresponding increase or charge to income.

The Company is subject to the accounting guidance for uncertain income tax positions. The Company's policy for recording interest and penalties associated with uncertain tax positions is to record such items as a component of income tax expense.

***Fair Value Measurements***

The accounting guidance for fair value establishes a framework for measuring fair value and establishes a three-level valuation hierarchy for disclosure of fair value measurement. The valuation hierarchy is based upon the transparency of inputs to the valuation of an asset or liability as of the measurement date. The three levels are defined as follows:

- Level 1: Observable quoted prices in active markets for identical assets and liabilities.
- Level 2: Observable quoted prices for similar assets and liabilities in active markets, quoted prices for identical or similar instruments in markets that are not active, and model-based valuation techniques for which all significant assumptions are observable in the market.
- Level 3: Model-based techniques that use at least one significant assumption not observable in the market. These unobservable assumptions reflect estimates of assumptions that market participants would use in pricing the asset or liability. Valuation techniques include use of option pricing models, discounted cash flow models, and similar techniques.

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The assets and liabilities which are fair valued on a recurring basis are described below and contained in the following tables. In addition, the Company may be required to record other assets and liabilities at fair value on a nonrecurring basis. These non-recurring fair value adjustments involve the lower of carrying value or fair value accounting and write downs resulting from impairment of assets.

The following tables summarize the Company's financial assets and liabilities measured at fair value on a recurring basis as of June 30, 2016, and December 31, 2015, respectively (in thousands):

	June 30, 2016	Quotes Prices in Active Markets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Other Unobservable Inputs (Level 3)
Earn-out liability <sup>(1)</sup>	\$ 6,565	\$ —	\$ —	\$ 6,565
Public SPAC Warrants <sup>(2)</sup>	7,284	7,284	—	—
<b>Total financial liabilities</b>	<b>\$ 13,849</b>	<b>\$ 7,284</b>	<b>\$ —</b>	<b>\$ 6,565</b>

	December 31, 2015	Quotes Prices in Active Markets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Other Unobservable Inputs (Level 3)
Earn-out liability <sup>(1)</sup>	\$ 9,652	\$ —	\$ —	\$ 9,652
Public SPAC Warrants <sup>(2)</sup>	24,076	24,076	—	—
<b>Total financial liabilities</b>	<b>\$ 33,728</b>	<b>\$ 24,076</b>	<b>\$ —</b>	<b>\$ 9,652</b>

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(1) Includes \$6.6 million and \$9.7 million as of June 30, 2016 and December 31, 2015, respectively, of earn-out liability for the Company's acquisitions of Western Outdoor Interactive Pvt. Ltd. ("WOI"), certain assets of RMG Networks Holding Corporation (the "RMG Assets"), navAero AB ("navAero") and Marks Systems, Inc. (doing business as masFlight ("masFlight")) assumed in business combinations for the year ended December 31, 2015.

(2) Includes 6,173,228 warrants issued in our initial public offering to non-sponsor shareholders.

The following table presents the fair value roll-forward reconciliation of level 3 assets and liabilities measured at fair value basis for the six months ended June 30, 2016 (in thousands):

	<b>Earn-Out Liability</b>
Balance, December 31, 2015	\$ 9,652
Change in value	(3,087)
Balance, June 30, 2016	<u>\$ 6,565</u>

The valuation methodology used to estimate the fair value of the financial instruments in the table above is summarized as follows:

*Earn-Out Liability.* The June 30, 2016 and December 31, 2015 fair values of the earn-out liabilities were comprised of earn-out liabilities associated with WOI, the RMG Assets, navAero and masFlight business combinations. The earn-out liabilities are estimated by using the income approach. Based on the respective purchase agreements, management estimated best case, base case, and worst case scenarios and discounted them to present value. The sum of the discounted weighted average probabilities was used to arrive at the fair value of the earn-out liability. The current and non-current portions of the total earn-out liabilities are included in accounts payable and accrued liabilities and other non-current liabilities, respectively, on the condensed consolidated balance sheets. The Company recorded income from the change in the fair value of these earn-out liabilities during the three and six months ended June 30, 2016 of \$2.5 million and \$3.1 million, respectively.

*Derivative Warrants.* The fair value of the outstanding Public SPAC Warrants issued in our initial public offering, recorded as derivative warrant liabilities, is determined by the Company using the quoted market prices for the Public SPAC Warrants, which are traded over the counter. On reporting dates where there are no active trades, the Company uses the last reported closing trade price of the Public SPAC Warrants to determine the fair value. The Company recorded income from the change in the fair value of these warrants during the three and six months ended June 30, 2016 of \$10.9 million and \$16.8 million, respectively. The Company recorded income from the change in the fair value of these warrants during the three and six months ended June 30, 2015 of \$14.8 million and \$15.7 million, respectively.

*Financial Liabilities.* The following table shows both the carrying amounts, which approximate the fair values, of the Company's financial liabilities in the condensed consolidated financial statements at June 30, 2016 and December 31, 2015, respectively (in thousands):

	<b>June 30, 2016</b>		<b>December 31, 2015</b>	
	<b>Carrying Amount</b>	<b>Fair Value</b>	<b>Carrying Amount</b>	<b>Fair Value</b>
<b>Financial liabilities:</b>				
Convertible senior notes <sup>(1)</sup>	\$ 68,679	\$ 61,104	\$ 68,335	\$ 78,557
Notes payable	\$ 1,781	\$ 1,781	\$ 2,229	\$ 2,229

(1) The fair value of the convertible senior notes is exclusive of the conversion feature, which was originally allocated for reporting purposes at \$13.0 million, and is included in the condensed consolidated balance sheets within "Additional paid-in capital" (see Note 11).

***Convertible Senior Notes***

The estimated fair value of the convertible senior notes, which are classified as level 2 financial instruments, was determined based on the quoted bid price of the notes in an over-the-counter market as of June 30, 2016.

**Notes Payable**

The fair value of our notes payable is considered to approximate their carrying value given the short term nature of their maturity.

**Adoption of New Accounting Pronouncements and Reclassification of Debt Issuance Costs**

In April 2015, the Financial Accounting Standards Board (the "FASB") issued Accounting Standards Update ("ASU") No. 2015-03, *Interest—Imputation of Interest: Simplifying the Presentation of Debt Issuance Costs*, amending the existing accounting standards for the presentation of debt issuance costs in the statement of financial position. The amendment requires debt issuance costs related to a recognized debt liability to be presented in the balance sheet as a direct deduction from the carrying amount of that debt liability, consistent with the treatment of a debt discount. We adopted this new guidance in the first quarter of 2016 as required, applying it on a retrospective basis for all balance sheet periods presented.

This change in accounting principle will result in a more transparent presentation of debt as debt issuance costs are similar in nature to debt discounts and in effect reduce the proceeds of borrowings as well as impact the effective interest rate on the related debt. Prior to this change in accounting principle, debt issuance costs were included in "Other non-current assets" in the consolidated balance sheets.

The table below shows the effect of the reclassification of unamortized debt issuance costs associated with our convertible senior notes in our previously reported consolidated balance sheet as of December 31, 2015 (in thousands):

	As presented December 31, 2015	Reclassifications	As adjusted December 31, 2015
Other non-current assets	\$ 13,702	\$ (1,678)	\$ 12,024
Notes payable and accrued interest, non-current	71,493	(1,678)	69,815

In September 2015, the FASB issued ASU 2015-16, *Business Combinations (Topic 805): Simplifying the Accounting for Measurement-Period Adjustments* ("ASU 2015-16"). ASU 2015-16 eliminates the requirement to retrospectively account for adjustments to provisional amounts within the measurement period recognized at the acquisition date in a business combination. ASU 2015-16 requires that these adjustments be recognized in the reporting period in which the adjustment amounts are determined and be calculated as if the accounting had been completed as of the acquisition date. ASU 2015-16 was effective prospectively for fiscal years, and for interim periods within those years, beginning after December 15, 2015. The adoption of ASU 2015-16 did not have a material impact on the Company's consolidated financial statements.

In February 2015, the FASB issued ASU No. 2015-02, *Consolidation (Topic 810): Amendments to the Consolidation Analysis* ("ASU 2015-02"). ASU 2015-02 amends the consolidation guidance for variable interest entities and voting interest entities, among other items, by eliminating the consolidation model previously applied to limited partnerships, emphasizing the risk of loss when determining a controlling financial interest and reducing the frequency of the application of related-party guidance when determining a controlling financial interest. ASU 2015-02 is effective for periods beginning after December 15, 2015, for public companies. The adoption of ASU 2015-02 did not have a material impact on our consolidated financial statements.

**Recently Issued Accounting Pronouncements**

In March 2016, the FASB issued ASU No. 2016-09, *Compensation - Stock Compensation (Topic 718), Improvements to Employee Share-Based Payment Accounting* ("ASU 2016-09"), which amends and simplifies the accounting for share-based payment awards in three areas; (1) income tax consequences, (2) classification of awards as either equity or liabilities, and (3) classification on the statement of cash flows. For public companies, ASU 2016-09 is effective for annual periods beginning after December 15, 2016, and interim periods within those annual periods. We are currently evaluating the impact of this standard on our consolidated financial statements.

In February 2016, the FASB issued ASU No. 2016-02, *Leases (Topic 842)* ("ASU 2016-02"). This update will require lease assets and lease liabilities to be recognized on the balance sheet and disclosure of key information about leasing arrangements.

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ASU 2016-02 is effective for the Company commencing in the first quarter of fiscal 2019 and must be adopted using a modified retrospective transition, and provides for certain practical expedients. Early adoption is permitted. We are currently evaluating the impact of this standard on our consolidated financial statements.

In July 2015, the FASB issued ASU No. 2015-11, *Inventory (Topic 330): Simplifying the Measurement of Inventory* (“ASU 2015-11”). ASU 2015-11 requires that inventory measured using any method other than last-in, first out (“LIFO”) or the retail inventory method to be subsequently measured at the lower of cost or net realizable value, rather than at the lower of cost or market value. Under this ASU, subsequent measurement of inventory using the LIFO and retail inventory method is unchanged. ASU 2015-11 is effective prospectively for fiscal years, and for interim periods within those years, beginning after December 15, 2016. Early application is permitted. The Company is currently evaluating the impact of this ASU on its consolidated financial statements.

In May 2014, the FASB issued ASU 2014-09, *Revenue from Contracts with Customers* (“ASU 2014-09”), which will supersede nearly all existing revenue recognition guidance under U.S. GAAP. The core principle of the guidance is that an entity should recognize revenue when it transfers promised goods or services to customers in an amount that reflects the consideration to which the company expects to be entitled in exchange for those goods or services. Further, the guidance requires improved disclosures to help users of financial statements better understand the nature, amount, timing and uncertainty of revenue that is recognized. The original effective date for ASU 2014-09 would have required the Company to adopt this standard beginning in the first quarter of 2017. In July 2015, the FASB voted to amend ASU 2014-09 by approving a one-year deferral of the effective date as well as providing the option to early adopt the standard on the original effective date. Accordingly, the Company may not adopt the standard until the first quarter of 2018. The new revenue standard may be applied retrospectively to each prior period presented or retrospectively with the cumulative effect recognized as of the date of adoption. We are currently evaluating the timing of its adoption and the impact of adopting the new revenue standard on our consolidated financial statements.

**Note 3. Business Combinations**

During the quarter ended September 30, 2015, the Company completed four acquisitions. The following table summarizes the preliminary fair value of the assets and liabilities assumed in the acquisitions (in thousands):

	Weighted Average Useful Life (Years)	Amounts at December 31, 2015 (Preliminary)	Adjustments	Purchase Price Allocation, as Adjusted
Goodwill		\$ 41,093	\$ (812)	\$ 40,281
Customer relationships	7.6	14,000	—	14,000
Developed technology	5.7	21,900	—	21,900
Trade name	5.0	200	—	200
Accounts receivable		6,450	—	6,450
Property and equipment		1,783	—	1,783
Deferred tax liability		(11,047)	—	(11,047)
Accrued expenses		(4,379)	—	(4,379)
Other liabilities assumed, net of assets acquired		(1,669)	812	(857)
<b>Total consideration transferred</b>		<b>\$ 68,331</b>	<b>\$ —</b>	<b>\$ 68,331</b>

During the six months ended June 30, 2016, the Company revised its analysis of the fair value of its acquisitions. The revised analysis related to a pre-acquisition contingency that was subsequently identified relating to a change in the Company's ability to recover amounts held in escrow by the seller of the RMG Assets. Due to the preliminary nature of the financial results prior to each of the acquisitions in 2015, the Company was unable to provide an accurate assessment of certain deferred tax assets, deferred tax liabilities and estimated income taxes payable for the period(s) prior to each acquisition date. These balances were finalized during the six months ended June 30, 2016.

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**Note 4. Goodwill**

The following table presents the changes in the Company's goodwill balance for the period presented (in thousands).

Balance at December 31, 2015	\$ 93,796
Adjustment to RMG goodwill	(812)
Currency translation adjustment	53
Balance at June 30, 2016	<u>\$ 93,037</u>

**Note 5. Content Library and Intangible Assets, net**

As a result of the business combinations in 2013, 2014 and 2015 (the "Business Combination"), the Company acquired definite-lived intangible assets that are primarily amortized on a straight-line basis. The Company's definite-lived intangible assets have assigned useful lives ranging from 1.5 to 8 years (weighted average of 5.5 years).

Content library and intangible assets, net at June 30, 2016, consisted of the following (in thousands):

	<u>Weighted Average Useful Lives</u>	<u>Gross Carrying Value</u>	<u>Accumulated Amortization</u>	<u>Net Carrying Value</u>
Intangible assets:				
Definite life:				
Existing technology - software	5.8 years	\$ 24,475	\$ 5,160	\$ 19,315
Existing technology - games	5 years	12,331	8,426	3,905
Developed technology	8 years	7,317	2,515	4,802
Customer relationships	7.5 years	133,637	60,821	72,816
Other	3.7 years	7,414	5,657	1,757
Content library (acquired in Business Combination)	1.5 years <sup>(1)</sup>	14,298	14,298	—
Content library (acquired post Business Combination)	1.5 years	57,844	37,315	20,529
Total intangible assets		<u>\$ 257,316</u>	<u>\$ 134,192</u>	<u>\$ 123,124</u>

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Content library and intangible assets, net at December 31, 2015, consisted of the following (in thousands):

	<u>Weighted Average Useful Lives</u>	<u>Gross Carrying Value</u>	<u>Accumulated Amortization</u>	<u>Net Carrying Value</u>
Intangible assets:				
Definite life:				
Existing technology - software	5.8 years	\$ 24,474	\$ 2,978	\$ 21,496
Existing technology - games	5.0 years	12,331	7,193	5,138
Developed technology	8.0 years	7,317	2,058	5,259
Customer relationships	7.5 years	133,566	50,184	83,382
Other	3.7 years	7,399	4,990	2,409
Content library (acquired in Business Combination)	1.5 years	14,298	14,298	—
Content library (acquired post Business Combination)	1.5 years <sup>(1)</sup>	49,599	33,516	16,083
<b>Total intangible assets</b>		<b>\$ 248,984</b>	<b>\$ 115,217</b>	<b>\$ 133,767</b>

(1) Useful estimate based upon the content library acquired in the business combination in which the Company acquired Row 44, Inc. ("Row 44") and 86% of the shares of Advanced Inflight Alliance AG ("AIA"), which approximates historical experience.

The Company expects to record amortization of the content library and intangible assets as follows (in thousands):

<b>Year ending December 31,</b>	<b>Amount</b>
2016 (remaining six months)	\$ 20,088
2017	39,564
2018	21,523
2019	15,834
2020	14,362
Thereafter	11,753
<b>Total</b>	<b>\$ 123,124</b>

The Company recorded amortization expense of \$7.5 million and \$14.9 million for the three and six months ended June 30, 2016, respectively and \$6.0 million and \$12.0 million for the three and six months ended June 30, 2015, respectively. Amortization expense excludes the amortization of the content library, which is included in cost of sales.

**Note 6. Available For Sale ("AFS") Securities**

During the six months ended June 30, 2016, the Company purchased and sold AFS securities for proceeds of approximately \$7.7 million and recognized a *de minimis* gain from the sale.

**Note 7. Commitments and Contingencies**

***Movie License and Internet Protocol Television (IPTV) Commitments***

In the ordinary course of business, the Company has certain long-term commitments, including license fees and guaranteed minimum payments owed to content providers. In addition, the Company has certain long-term arrangements with service and television providers to license and provide content and IPTV services that are subject to future guaranteed minimum payments.

***Operating Lease Commitments***

The Company leases its operating facilities under noncancelable operating leases that expire on various dates through 2025. The Company also leases certain facilities and vehicles under month-to-month arrangements. Total rent expense for the three months ended June 30, 2016 and 2015 was \$1.3 million and \$1.1 million, respectively. Total rent expense for the six months ended June 30, 2016 and 2015 was \$2.4 million and \$2.1 million, respectively. The Company is responsible for certain operating expenses in connection with these leases.

***Satellite Cost Commitments***

During the six months ended June 30, 2016 and 2015, the Company maintained agreements with satellite service providers to provide for satellite capacity over Russia, the North Atlantic and for expansion of its existing capacity in the U.S. and Europe. The Company expenses these satellite fees in the month the service is provided as a charge to cost of services.

During the year ended December 31, 2014, the Company entered into a satellite service agreement with New Skies Satellites B.V. (“SES”) to provide global, Ku-band satellite bandwidth to GEE for use in GEE’s in-flight connectivity system. The SES agreement required the Company to make an up-front pre-payment of \$4.0 million as well as one additional pre-payment of \$4.5 million due and paid in January 2016. During the three months ended March 31, 2015, the Company entered into an agreement with Hughes Network Systems, LLC (“HNS”) to administer and assume the underlying obligations under the SES agreement, and transferred its first \$4.0 million SES prepayment to HNS. The upfront \$4.0 million pre-payment was applied to certain service fees through February 2016, while the \$4.5 million prepayment made in January 2016 will be applied to certain future services expected to launch in 2017. In March 2016, the Company and HNS entered into an additional agreement under which HNS will deliver satellite connectivity for the Company’s next-generation, multi-band airborne services utilizing the high-throughput Ka-band Jupiter constellation of satellites. There is no cost commitment under this contract at this time because the Company has not commenced Ka-band operations to date and costs are based on actual usage.

***Legal Matters***

On May 6, 2014, UMG Recordings, Inc., Capitol Records, Universal Music Corp. and entities affiliated with the foregoing (collectively, “UMG”) filed suit in the United States District Court for the Central District of California against the Company and Inflight Productions Ltd. (“IFP”) for copyright infringement and related claims and unspecified money damages. IFP is a direct subsidiary of Global Entertainment AG (formally AIA) and an indirect subsidiary of the Company. On April 20, 2016, that court issued a decision granting UMG’s motion for partial summary judgment, finding that the Company and IFP willfully infringed UMG’s copyrights. On July 1, 2014, American Airlines, Inc. (“American”) filed suit in Texas State Court against IFP, and filed an amended complaint on October 29, 2014, for breach of contract and seeking a declaration that IFP must defend and indemnify American against claims that UMG and others may assert against American for copyright infringement insofar as such claims arise out of American’s use of content provided by IFP. The American lawsuit seeks unspecified money damages and liquidated damages, as well as attorney’s fees. IFP has counterclaimed on the basis that it believes it previously reached a settlement with American on this matter. IFP intends to vigorously defend itself against the American lawsuit and prosecute its counterclaims.

During the three months ended June 30, 2016, the Company engaged in settlement negotiations with major record labels, including UMG, to settle sound-recording liabilities (the “Sound-Recording Settlements”). In addition, the Company engaged in settlement negotiations with airlines regarding related liabilities. As a result of these Sound-Recording Settlements and related negotiations, the Company has recorded a liability totaling approximately \$45.8 million in the aggregate (as of June 30, 2016), which is comprised of future stock and cash payments. As a result of the Sound-Recording Settlements (one of which was executed on August 8, 2016), the Company recorded an increase to its legal settlement accruals and expenses totaling \$38.1 million during the three months ended June 30, 2016.

On August 14, 2014, SwiftAir, LLC filed suit against our wholly owned subsidiary Row 44 and one of its customers for breach of contract, quantum meruit, unjust enrichment and similar claims and unspecified money damages in the Superior Court of California for the County of Los Angeles. SwiftAir and Row 44 had a contractual relationship, which Row 44 terminated in 2013, with respect to the provision of destination deal content to one of Row 44’s connectivity customers. Based on currently available information, the Company believes that Row 44 has strong defenses and intends to defend vigorously against this lawsuit, but the outcome of this matter is inherently uncertain and could have a material adverse effect on the Company’s business, financial condition and results of operations. As of June 30, 2016, the potential range of loss related to this matter cannot be determined.

In addition, from time to time we are party to various legal matters incidental to the conduct of our business. Certain of our outstanding legal matters include speculative claims for indeterminate amounts of damages. We record a liability when we believe that it is probable that a loss has been incurred and the amount can be reasonably estimated. While the resolution of certain of the above matters cannot be predicted with certainty, the Company does not believe, based on current knowledge, that the outcome of these currently pending claims or legal proceedings in which the Company is currently involved will have a material adverse effect on the Company's financial statements.

#### ***Earn-out and Equipment Purchase Commitments***

Through the acquisitions of WOI, the RMG Assets, masFlight and navAero, the Company assumed certain obligations with respect to future contingent earn-outs. As of June 30, 2016 and December 31, 2015, the total liability was approximately \$6.6 million and \$9.7 million, respectively, with potential payouts on specified dates through 2020. Through its normal course of business, the Company enters into future purchase commitments with its equipment vendors to secure future inventory for its customers.

### **Note 8. Related Party Transactions**

#### ***Loan Agreement***

On February 24, 2016, the Company entered into a loan agreement (the "Loan Agreement") with a third party that provides in-flight entertainment systems to airlines (the "Loan Party"). The Loan Party is majority-owned by PAR Investment Partners, L.P., or PAR, who beneficially owned approximately 37% of our outstanding shares of common stock as of June 30, 2016. The Chairman of the Company's Board of Directors is also a Managing Partner of PAR and a member of the board of directors of the Loan Party.

The Loan Agreement provides for extensions of credit by the Company to the Loan Party of up to \$5.0 million. The Company's Board of Directors considered the entry into the Loan Agreement under the Company's policies and procedures regarding related person transactions, and determined that it was appropriate and in the best interests of the Company and its stockholders to enter into the Loan Agreement due to the Loan Party's position as a supplier to flydubai, a Connectivity customer of the Company, and the Loan Party's future business prospects. Our Board of Directors further determined that the parties' relationships did not give rise to any material conflict of interest in entering into the Loan Agreement.

The Loan Agreement qualifies the Loan Party as a variable interest entity to the Company. In accordance with ASC 810, *Consolidation*, the Company was not deemed to be the primary beneficiary of the Loan Party as the Company does not hold any power over the Loan Party's activities that most significantly impact its economic performance. Therefore, the Loan Party is not subject to consolidation. The maximum exposure to loss as a result of the Loan Agreement is the outstanding principal balance and any accrued interest thereon.

The borrowings under the Loan Agreement are evidenced by a senior secured promissory note (the "Note") and bear interest at a per annum rate of 15%. The outstanding principal and accrued interest thereon are payable in full December 31, 2016. As of June 30, 2016, the outstanding principal balance of the loan was \$4.5 million, inclusive of a \$0.1 million origination fee. Accrued interest receivable under the Note as of June 30, 2016 was approximately \$0.2 million. As a result of information provided by the Loan Party subsequent June 30, 2016, the Company impaired the Note during the three months ended June 30, 2016 and wrote off the outstanding principal balance of the Note and accrued interest receivable.

#### ***Subscription Receivable with Employee***

The Company has an agreement with a former officer of Row 44 to stock-settle his note receivable and accrued interest, which amounted to \$0.5 million, in exchange for certain shares of the Company's common stock held by the officer. As of June 30, 2016 and December 31, 2015, the balance of the former officer's receivable amounted to \$0.5 million and is presented as subscriptions receivable. The Company recognizes interest income when earned, using the simple interest method. Interest amounts recognized by the Company during the three and six months ended June 30, 2016 and June 30, 2015 were not material. The Company makes ongoing assessments regarding the collectability of the notes receivable and subscriptions receivable balances.

***Administrative Services***

One of the Company's subsidiaries rents office space belonging to a company in which a former member of such subsidiary's management had an ownership interest. The former member of management sold his interest in the office during the third quarter of 2015. There were no unpaid lease liabilities as of June 30, 2016 and December 31, 2015. The Company recognized rent expense of \$0.1 million each for the three and six months ended June 30, 2016 and 2015, respectively.

***Office Lease Agreement with Employee***

In connection with the acquisition of substantially all of the assets of Post Modern Edit, LLC and related entities ("PMG") in 2013, the Company acquired an office lease in a building that is currently being occupied and used as part of operations in Irvine, California. This building is majority-owned by one of the founding members of PMG, who was an employee of the Company through March 2015. The lease terminates on March 31, 2024. The total rental expense incurred during the three and six months ended June 30, 2016 and 2015 was \$0.1 million.

***PMG Post-Closing Payment***

In connection with the Company's purchase of substantially all of the assets of PMG in June 2013, the Company agreed to a post-closing payment based on the fulfillment of certain post-closing employment obligations by certain PMG executives (the "PMG Earn Out"), which the Company is required to account for as compensation to the sellers and is recognized as an expense, over the requisite service period. In June 2014, the Company modified the PMG Earn Out to waive the PMG Earn Out and certain other purchase obligations and PMG seller rights in exchange for cash consideration of \$2.5 million (the "Additional PMG Consideration"). Fifty percent of the additional PMG Consideration was payable after 10 days from closing, and the remaining \$1.25 million was payable in four quarterly installments through the first half of 2015. At December 31, 2014, the remaining outstanding balance was approximately \$0.9 million. During the quarter ended March 31, 2015, the Company further modified the PMG Earn Out to accelerate the payment of the remaining \$0.6 million payment to April 2015. As the PMG Earn Out was settled in 2015, there was no outstanding balance on the PMG Earn Out as of June 30, 2016.

***masFlight Earn-Out***

In August 2015, the Company acquired masFlight for approximately \$10.3 million in cash and \$9.3 million in contingent consideration. As a portion of the contingent consideration is subject to future employment of certain employees of masFlight, certain contingent consideration is recorded as compensation expense prospective to the acquisition date. During the three months ended June 30, 2016, the Company recognized a reduction in compensation expense of \$0.5 million relating to the masFlight contingent consideration. As of June 30, 2016, the earn-out compensation liability was \$0.3 million.

***AIA Earn-Out***

The Company recognized an expense of \$1.4 million during the year ended December 31, 2014 as a result of the remeasurement of the fair value of the earn-out liability acquired in the AIA stock acquisition. The earn-out was payable to one of the former managing directors at Entertainment in Motion, a wholly owned subsidiary. The earn-out liability was paid and fully settled during the year ended December 31, 2015. As of June 30, 2016, there was no outstanding balance owed on this earn-out.

**Note 9. Common Stock, Stock Options and Warrants*****Stock Repurchase Program***

In March 2016, the Company's Board of Directors (the "Board") authorized a stock repurchase program under which the Company may repurchase up to \$50.0 million of its common stock. Under the stock repurchase program, the Company may repurchase shares from time to time using a variety of methods, which may include open-market purchases and privately negotiated transactions. The extent to which the Company repurchases its shares, and the timing and manner of such repurchases, will depend upon a variety of factors, including market conditions, regulatory requirements and other corporate considerations, as determined by management. The Company measures all potential buybacks against other potential uses of capital which may arise from time to time. The repurchase program does not obligate the Company to repurchase any specific number of shares, and may be suspended or discontinued at any time. The Company expects to finance any purchases with existing cash on hand, cash from operations and potential additional borrowings. During the three months ended June 30, 2016, the Company repurchased 0.6 million shares of its common stock for consideration of \$5.2 million in the aggregate. As of June 30, 2016, the remaining authorization under the stock repurchase plan was \$44.8 million.

***Warrants Repurchase Program***

During the year ended December 31, 2014, the Board authorized a warrant repurchase program under which the Company may repurchase GEE's Public SPAC Warrants for an aggregate purchase price, payable in cash and/or shares of common stock, of up to \$25.0 million (inclusive of certain prior warrant purchases). In August 2015, the Board authorized an additional \$20.0 million for this repurchase program. As of June 30, 2016 and December 31, 2015, \$16.7 million was available to repurchase GEE's Public SPAC Warrants under this authorization. The amount the Company spends and the number of warrants repurchased varies based on a variety of factors including the warrant price.

***Stock Options***

Under the Company's 2013 Amended and Restated Equity Incentive Plan, (as amended, the "Plan"), the Administrator of the Plan, which is the compensation committee of the Company's Board of Directors, may grant up to 11,000,000 stock options, restricted stock, restricted stock units (RSUs) and other incentive awards to employees, officers, non-employee directors, and consultants, and such options or awards may be designated as incentive or non-qualified stock options at the discretion of the Administrator. The exercise price of stock option awards granted is equal to the per share closing price of the common stock on the date the options were granted. Stock option awards generally vest over one to four years, expire five to seven years from the date of grant and certain stock option and RSU awards have accelerated vesting provisions in the event of a change in control and certain termination provisions.

Fair values of the stock options at June 30, 2016 and 2015 were determined using the Black-Scholes model and the following weighted average assumptions:

	Six Months Ended June 30,	
	2016	2015
Common stock price on grant date	\$8.45	\$13.14
Expected life (in years)	3.9	4.0
Risk-free interest rate	1.12%	1.31%
Expected stock volatility	45.0%	50.0%
Expected dividend yield	—%	—%
Fair value of stock options granted	\$2.97	\$5.37

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Stock option activity for the six months ended June 30, 2016 is as follows:

<i>Global Eagle Stock Option Plan</i>	Shares (in thousands)	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (in years)	Aggregate Intrinsic Value (in thousands)
Outstanding at January 1, 2016	5,625	\$ 11.20		
Granted	937	\$ 8.45		
Exercised	(26)	\$ 9.87		
Forfeited	(246)	\$ 11.51		
Outstanding at June 30, 2016	6,290	\$ 10.78	2.99	\$ 2
Vested and expected to vest at June 30, 2016	5,665	\$ 10.77	2.89	\$ 1
Exercisable at June 30, 2016	3,220	\$ 10.79	2.33	\$ —

***Restricted Stock Units***

Under the Plan, RSU awards that can be granted to employees, officers and consultants vest annually on each anniversary of the grant date and generally over a 4-year term. RSUs granted to non-employee directors in 2016 and 2015 cliff-vest on the 13 month anniversary from the grant date. The grant date fair value of an RSU equals the closing price of the Company's common stock on the grant date.

The following summarizes select information regarding our RSUs during the six months ended June 30, 2016:

	Units (in thousands)	Weighted Average Grant Date Fair Value	Aggregate Intrinsic Value (in thousands)
Outstanding at January 1, 2016	408	\$ 12.71	
Granted	532	\$ 7.90	
Vested	(43)	\$ 13.23	
Forfeited	(42)	\$ 12.15	
Balance nonvested at June 30, 2016	855	\$ 9.72	\$ 5,677
Vested and expected to vest at June, 2016	587	\$ 9.78	\$ 3,732

***Stock-Based Compensation Expense***

Stock-based compensation expense related to all employee and non-employee stock-based awards for the three and six months ended June 30, 2016 and 2015 was as follows (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2016	2015	2016	2015
Stock-based compensation expense:				
Cost of services	\$ 74	\$ 124	\$ 150	\$ 165
Sales and marketing expenses	112	338	279	364
Product development	246	196	494	509
General and administrative	1,761	894	3,339	3,064
Total stock-based compensation expense	\$ 2,193	\$ 1,552	\$ 4,262	\$ 4,102

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**Warrants**

The following is a summary of the "Legacy Row 44 Warrants" outstanding as of June 30, 2016. Our Legacy Row 44 Warrants are warrants issued by a legacy entity purchased as part of the Business Combination. The Legacy Row 44 Warrants were originally exercisable for shares of Row 44, but as a result of the Business Combination became exercisable for Company common stock.

	Weighted Average Exercise Price per Warrant	Number of Warrants (as converted) (in thousands)	Weighted Average Remaining Life (in years)
Legacy Row 44 Warrants <sup>(1)</sup>	\$ 8.79	690	0.72
Legacy Row 44 Warrants <sup>(2)</sup>	\$ 8.62	477	0.94

(1) Originally issuable for Row 44 common stock.

(2) Originally issuable for Row 44's Series C preferred stock.

The following is a summary of Public SPAC Warrants outstanding as of June 30, 2016. There was no activity for the three months ended June 30, 2016.

Public SPAC Warrants	Number of Warrants (in thousands)	Weighted Average Exercise price	Weighted Average Remaining Contractual Term (in years)
Outstanding and exercisable at June 30, 2016	6,173	\$ 11.50	1.59

The Company accounts for its 6.2 million Public SPAC Warrants as derivative liabilities at June 30, 2016. During the three and six months ended June 30, 2016 and June 30, 2015, the Company recorded income of approximately \$10.9 million and \$16.8 million, respectively, and \$14.8 million and \$15.7 million, respectively, in the condensed consolidated statements of operations as a result of the remeasurement of these warrants. The fair value of warrants issued by the Company has been estimated using the warrants' quoted public market price. In the event the closing price of the Company's common stock is at or above \$17.50 for twenty of thirty consecutive trading days, the Company can redeem the 6.2 million Public SPAC Warrants for \$0.01 per warrant following a 30-day notice period, during which period holders may exercise their warrants at \$11.50 per share, with estimated proceeds of approximately \$71.0 million, unless we decide, at our option, to make them exercisable on a cashless basis.

**Note 10. Income Taxes**

The Company recorded an income tax provision of \$0.7 million and \$1.3 million for the three months ended June 30, 2016 and 2015, respectively, and \$3.9 million and \$0.6 million for the six months ended June 30, 2016 and 2015, respectively. The tax provision for the six months ended June 30, 2016 is primarily attributable to changes in state and foreign income taxes resulting from fluctuations in the foreign subsidiaries' contribution to pretax income, withholding taxes and effects of permanent differences. The tax provision for the six months ended June 30, 2015 was reduced by benefits realized from internal restructuring during the period.

Due to uncertainty as to the realization of benefits from the Company's U.S. and certain international net deferred tax assets, including net operating loss carryforwards, the Company has a full valuation allowance reserved against such net deferred tax assets. The Company intends to continue to maintain a full valuation allowance on certain jurisdictions' net deferred tax assets until there is sufficient evidence to support the reversal of all or some portion of these allowances.

As of June 30, 2016 and December 31, 2015, the liability for income taxes associated with uncertain tax positions was \$6.2 million and \$4.6 million, respectively. The net increase in the liability during 2016 was primarily attributable to reserves for tax positions taken by one of the Company's Canadian subsidiaries. As of June 30, 2016 and December 31, 2015, the Company had accrued \$1.7 million and \$1.4 million, respectively, of interest and penalties related to uncertain tax positions. It is reasonably

possible that the amount of the unrecognized benefit with respect to certain of the Company's unrecognized tax positions may significantly decrease within the next 12 months. This change may be the result of ongoing audits or the expiration of federal and state statutes of limitations for the assessment of taxes.

**Note 11. Notes Payable and Bank Debts*****Convertible Senior Notes***

In February 2015, the Company issued an aggregate principal amount of \$82.5 million of convertible senior notes due in 2035 (the "Convertible Notes") in a private placement. The Convertible Notes were issued at par, pay interest semi-annually in arrears at an annual rate of 2.75% and mature on February 15, 2035, unless earlier repurchased, redeemed or converted pursuant to the terms of the Convertible Notes. In certain circumstances and subject to certain conditions, the Convertible Notes are convertible at an initial conversion rate of 53.9084 shares of common stock per \$1,000 principal amount of notes (which represents an initial conversion price of approximately \$18.55 per share), subject to adjustment. Holders of the Convertible Notes may convert their Convertible Notes at their option at any time prior to the close of business on the business day immediately preceding November 15, 2034, only if one or more of the following conditions has been satisfied: 1) during any calendar quarter beginning after March 31, 2015 if the closing price of the Company's common stock equals or exceeds 130% of the respective conversion price per share during a defined period at the end of the previous quarter, 2) during the five consecutive business day period immediately following any five consecutive trading day period in which the trading price per \$1,000 principal amount of Convertible Notes for each trading day was less than 98% of the product of the last reported sale price of the Company's common stock and the conversion rate on each such trading day; 3) if specified corporate transactions occur, or 4) if the Company calls any or all of the Convertible Notes for redemption, at any time prior to the close of business on the second business day immediately preceding the redemption date. On or after November 15, 2034, until the close of business on the second scheduled trading day immediately preceding the maturity date, a holder may convert all or a portion of its Convertible Notes at any time, regardless of the foregoing circumstances.

On February 20, 2022, February 20, 2025 and February 20, 2030 and if the Company undergoes a "fundamental change" (as defined in the indenture governing the Convertible Notes (the "Indenture")), subject to certain conditions, a holder will have the option to require the Company to repurchase all or a portion of its Convertible Notes for cash at a repurchase price equal to 100% of the principal amount of the Convertible Notes to be repurchased, plus any accrued and unpaid interest, if any, to, but excluding, the relevant repurchase date. In addition, upon the occurrence of a "make-whole fundamental change" (as defined in the Indenture) or if the Company delivers a redemption notice prior to February 20, 2022, the Company will, in certain circumstances, increase the conversion rate for a holder that converts its Convertible Notes in connection with such make-whole fundamental change or redemption notice, as the case may be.

The Company may not redeem the Convertible Notes prior to February 20, 2019. The Company may, at its option, redeem all or part of the Convertible Notes at any time (i) on or after February 20, 2019 if the last reported sale price per share of the Company's common stock has been at least 130% of the conversion price then in effect for at least 20 trading days during any thirty consecutive trading day period ending on, and including, the trading day immediately preceding the date on which the Company provides written notice of redemption and (ii) on or after February 20, 2022 regardless of the sale price condition described in clause (i), in each case, at a redemption price equal to 100% of the principal amount of the Convertible Notes to be redeemed, plus accrued and unpaid interest to, but excluding, the redemption date. Upon conversion of any Convertible Note, the Company shall pay or deliver to the converting Holder, cash, shares of common stock or a combination of cash and shares of the Company's common stock, at the Company's election.

In accounting for the issuance of the Convertible Notes, the Company separated the notes into liability and equity components. The carrying amount of the liability component of \$69.5 million was calculated by measuring the fair value of similar liabilities that do not have an associated convertible feature. The carrying amount of the equity component was calculated to be \$13.0 million, and represents the conversion option which was determined by deducting the fair value of the liability component from the principal amount of the notes. This difference represents a debt discount that is amortized to interest expense over the term of the Convertible Notes. The equity component is not remeasured as long as it continues to meet the conditions for equity classification.

In accounting for the direct transaction costs (the "issuance costs") related to the Convertible Notes, the Company allocated the total amount of issuance costs incurred to the liability and equity components based on their relative values. The Company

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recorded issuance costs of \$1.8 million and \$0.3 million to the liability component and equity component, respectively. Issuance costs, including fees paid to the initial purchasers who acted as intermediaries in the placement of the Convertible Notes, attributable to the liability component are presented in the balance sheet as a direct deduction from the carrying amount of the debt liability and are amortized to interest expense over the term of the Convertible Notes, and the issuance costs attributable to the equity component were netted with the equity component and included within "Additional paid-in capital" in the condensed consolidated balance sheets. Interest expense related to the amortization expense of the issuance costs associated with the liability component was not material during the three and six months ended June 30, 2016.

As of June 30, 2016 and December 31, 2015, the outstanding Convertible Notes balance, net of debt issuance costs and discount associated with the equity component, was \$68.7 million and \$68.3 million, respectively.

### ***Bank Debt***

With the acquisition of Travel Entertainment Group Equity Limited and subsidiaries ("IFES") on October 18, 2013, the Company assumed approximately \$1.3 million of debt in the form of two facility letters for a commercial mortgage loan with a bank for \$0.2 million and \$1.1 million. The commercial mortgage loan for \$0.2 million matured and the remaining outstanding balance and accrued interest was repaid in October 2014. The \$1.1 million mortgage letter matures in October 2032 and bears interest at a rate equal to 1.75%. Interest is paid on a monthly basis. There was no accrued interest on the mortgage letter as of June 30, 2016 and December 31, 2015. As of June 30, 2016 and December 31, 2015, there were \$0.8 million and \$0.9 million in borrowings outstanding under the remaining facility letter, respectively.

### ***Citibank Loans***

On December 22, 2014, the Company entered into a Credit Agreement with Citibank (the "Citibank Credit Agreement"), providing for \$2.4 million of term loans (the "Citibank Term Loans") and a revolving line of credit (the "Citibank Revolving Loans") in an amount not to exceed \$20.0 million. The Citibank Term Loans bore interest at a floating rate based on LIBOR plus an applicable interest margin per annum and were to mature on December 22, 2017. A total of \$0.2 million of the principal amount of the Citibank Term Loans plus any accrued and unpaid interest was to be repaid at the end of each quarter. The outstanding balance of the Citibank Term Loans were prepayable in whole or in part at any time without penalty. As noted below, the Company repaid the outstanding balance and terminated the Citibank Credit Agreement on July 27, 2016

Debt issuance costs incurred in connection with the Citibank Term Loans totaled \$0.3 million and were being amortized to interest expense over the respective term of the loans. As of June 30, 2016 and December 31, 2015, there were \$1.0 million and \$1.3 million, respectively, outstanding under the Citibank Term Loans and \$20.0 million available for future borrowings under the Citibank Revolving Loans.

The following is a schedule, by year, of future minimum principal payments required under notes payable and bank debts as of June 30, 2016 (in thousands):

	<b>Years Ending December 31,</b>	<b>Amount</b>
2016 (remaining six months)	\$	716
2017		356
2018		49
2019		45
2020		41
Thereafter		83,074
<b>Total</b>	<b>\$</b>	<b>84,281</b>

On July 27, 2016, in connection with the completion of the Emerging Markets Communications ("EMC") acquisition, the Company repaid all amounts outstanding under the Citibank Credit Agreement. In exchange for the payment in full of obligations under the Citibank Credit Agreement, the Company terminated that agreement and obtained a full release of any further obligations thereunder. See Note 14, Subsequent Events.

**Note 12. Concentrations****Concentrations of Credit and Business Risk**

Financial instruments that potentially subject the Company to a concentration of credit risk consist of cash and cash equivalents and accounts receivable.

At June 30, 2016 and December 31, 2015, the Company's cash and cash equivalents were maintained primarily with major U.S. financial institutions and foreign banks. Deposits with these institutions at times exceed the federally insured limits, which potentially subjects the Company to concentration of credit risk. The Company has not experienced any losses related to these balances and believes that there is minimal risk.

A substantial portion of the Company's revenue is generated through arrangements with Southwest Airlines. The percentage of revenue generated through this customer (which represents more than 10% of our consolidated revenue) is as follows:

	Six Months Ended June 30,	
	2016	2015
Southwest Airlines as a percentage of total revenue	24%	25%
Southwest Airlines as a percentage of Connectivity revenue	83%	89%

No other customer accounted for greater than 10% of total revenue for the two periods presented.

There were no accounts receivable balances from customers that represented more than 10% of total accounts receivable at June 30, 2016 and December 31, 2015.

**Note 13. Restructuring**

The Company records the cost reduction plan activities in accordance with the Accounting Standards Codification (ASC), including *ASC 420 Exit or Disposal Cost Obligations*, *ASC 712 Compensation-Nonretirement Postemployment Benefits* and *ASC 360 Property, Plant and Equipment (Impairment or Disposal of Long-Lived Assets)*.

During the third quarter ended September 30, 2014, the Company implemented a plan to improve operational efficiencies, which included the closure of its German-based operations and facilities, centralization of its international financial operations, and realignment of its international and U.S. tax structure (the "Restructuring Plan"). During 2014, in conjunction with the Restructuring Plan, the Company committed to a reduction in force. As of September 23, 2014, the Company communicated the reduction to affected employees. The Company completed the implementation of its Restructuring Plan before the end of 2015.

The Company incurred a total of \$4.7 million of restructuring charges in connection with the Restructuring Plan, including:

- (1) \$2.7 million total expenses relating to employee termination benefits, which primarily included severance and transitional-related expenses.
- (2) In connection with the closure of its German operations pursuant to the Restructuring Plan, the Company disposed of approximately 11,000 square feet of leased facilities in Duisburg and Munich, Germany, representing approximately 6% of its global facilities square footage. The Company incurred an aggregate of approximately \$0.4 million of facilities disposal charges pursuant to the Restructuring Plan.
- (3) \$1.6 million of legal and professional fees associated with the execution of the Restructuring Plan.

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The following table summarizes the charges recorded related to the Restructuring Plan by type of activity (in thousands):

	Six Months Ended June 30,	
	2016	2015
Termination benefits	\$ —	\$ 238
Leases and other contractual obligations	—	64
Other	—	—
Total Restructuring charges	<u>\$ —</u>	<u>\$ 302</u>

The following table summarizes the charges and spending relating to the restructuring plan for the year ended December 31, 2015 (in thousands):

	Termination Costs	Leases and other contractual obligations	Other	Total
Restructuring reserves as of January 1, 2015	\$ 809	\$ 39	\$ 1,076	\$ 1,924
Expense	238	107	66	411
Payments	<u>(1,047)</u>	<u>(146)</u>	<u>(1,142)</u>	<u>(2,335)</u>
Restructuring reserves as of December 31, 2015	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>

#### Note 14. Subsequent Events

Effective July 27, 2016, the Company completed the purchase of EMC, a land and maritime satellite communications company, in exchange for stock, cash and the assumption of certain legacy EMC debt. The purchase price, which is subject to customary post-closing working capital and other adjustments, consisted of (i) \$30 million in cash paid at closing, (ii) approximately 5.5 million shares of Company common stock issued at the closing, (iii) the Company's assumption of approximately \$386 million of EMC's indebtedness, (iv) the redemption for cash of approximately \$55 million of existing seller preferred stock and (v) \$25 million in deferred compensation to be paid in cash or newly issued Company common stock (at the Company's option) one year after the closing.

## ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

As used herein, "Global Eagle Entertainment," "GEE," the "Company," "our," "we," or "us" and similar terms include Global Eagle Entertainment Inc. and its subsidiaries, unless the context indicates otherwise.

### *Cautionary Note Regarding Forward-Looking Statements*

We make forward-looking statements in this Quarterly Report on Form 10-Q and the documents incorporated by reference herein within the meaning of the Private Securities Litigation Reform Act of 1995. These forward-looking statements relate to expectations or forecasts for future events, including without limitation our earnings, revenues, expenses or other future financial or business performance or strategies, or the impact of legal or regulatory matters on our business, results of operations or financial condition. These statements may be preceded by, followed by or include the words "may," "might," "will," "will likely result," "should," "estimate," "plan," "project," "forecast," "intend," "expect," "anticipate," "believe," "seek," "continue," "target" or similar expressions.

These forward-looking statements are based on information available to us as of the date of this Quarterly Report on Form 10-Q and on our current expectations, forecasts and assumptions, and involve substantial risks and uncertainties. Actual results may vary materially from those expressed or implied by the forward looking statements herein due to a variety of factors, including: our ability to integrate our acquired businesses, the ability of our business to grow, including through acquisitions which we are able to successfully integrate, and the ability of our executive officers to manage growth profitably; any delay or inability to realize the expected benefits and synergies of the EMC acquisition; our assumption of EMC's outstanding indebtedness and the costs relating thereto; our compliance with the covenants in our credit facilities; the risk that disruptions from the EMC acquisition will harm our business, including customer retention risk; competitive responses to the EMC acquisition; our ability to effectively protect EMC's intellectual property rights; the ability of our customer Southwest Airlines to maintain a sponsor for its "TV Flies Free" offering and our ability to replicate this model through other sponsorship alliances; the outcome of any legal proceedings pending or that may be instituted against us, our subsidiaries, or third parties to whom we owe indemnification obligations; costs associated with defending and/or settling pending or future intellectual property infringement actions and other litigation or claims, and our failure to complete negotiations with major record labels to settle legacy sound recording liabilities on contemplated terms; our ability to recognize and timely implement future technologies in the aviation, maritime and land satellite connectivity and remote-communications space, including GSM and Ka-band system development and deployment; our ability to capitalize on investments in developing our service offerings, including our long-term project with QEST to develop global antenna technologies; significant product development expenses associated with our long-term line-fit initiatives; our ability to deliver end-to-end network performance sufficient to meet increasing airline and maritime customer and passenger demand; our ability to obtain regulatory approval on a timely basis for the use of our equipment on aircraft and maritime vessels; our ability to obtain and maintain international authorizations to operate our service over the airspace or terrestrial waters of foreign jurisdictions; our ability to expand our service offerings and deliver on our service roadmap; our ability to timely and cost-effectively identify and license television and media content that passengers will purchase; a decrease in the media content onboard IFE systems and/or the discontinuance of the use of IFE systems indefinitely due to the emergence and increase in the use of hand-held personal devices by airline and maritime passengers; general economic and technological circumstances in the satellite transponder market, including access to transponder space in capacity limited regions and successful launch of replacement transponder capacity where applicable; our ability to obtain and maintain licenses for content used on legacy installed IFE systems, or our failure to have the appropriate intellectual-property licenses for our business; the loss of, or failure to realize benefits from, agreements with our airline and maritime partners; the loss of relationships with original equipment manufacturers or dealers; unfavorable economic conditions in the airline and maritime industries and economy as a whole; our ability to expand our domestic or international operations, including our ability to grow our business with current and potential future airline, maritime and land-based partners or successfully partner with satellite service providers, including Intelsat, Hughes Network Systems and SES; our reliance on third-party satellite service providers and equipment and other suppliers, including single source providers and suppliers; the effects of service interruptions or delays, technology failures, material defects or errors in our software, damage to our equipment or geopolitical restrictions; the result of ongoing tax audit that could result in reduction of tax carryforwards; the limited operating history of our connectivity and in-flight television and media products; increases in our projected capital expenditures due to, among other things, unexpected costs incurred in connection with the roll out of our technology roadmap or our international plan of expansion; fluctuation in our operating results; the demand for in-flight broadband Internet access services and market acceptance for our products and services; our ability to generate sufficient cash flow to make payments on our indebtedness; our incurrence of additional indebtedness in the future; our ability to repay the convertible notes at maturing or to repurchase the convertible notes upon a fundamental change or at specific repurchase dates; the effect of the conditional conversion feature of the convertible notes; the loss of management and other key employees; substantial non-recurring transaction, regulatory and integration costs and/or

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unknown liabilities; sales of our stock in the future by shareholders of EMC, which will hold a substantial portion of our outstanding securities, and the resulting effect on the price of our common stock; changes in laws or regulations that apply to us or our industry; the execution and compliance costs relating to new regulatory and compliance frameworks , new market risks and operations in new geographies; and other risks and uncertainties set forth in this report and in our most recent Annual Report on Form 10-K.

The following discussion and analysis of our business and results of operations for the three and six months ended June 30, 2016, and our financial condition at that date, should be read in conjunction with the financial statements and the notes thereto included in our previously filed Quarterly Report on Form 10-Q, this Quarterly Report on Form 10-Q and our 2015 Form 10-K.

## Overview of the Company

We are a leading full-service provider of connectivity and content to the worldwide travel industry, as well as the non-theatrical markets in Canada and in the U.S. and overseas. Our principal operations and decision-making functions are located in North America and Europe. We manage and report our businesses in two operating segments: Connectivity and Content. Our chief operating decision maker regularly reviews our operating results by our Connectivity and Content operating segments, principally to make decisions about how we allocate our resources and to measure our segment and consolidated operating performance. As of June 30, 2016, the majority of our revenue was generated through the licensing of content and providing our Wi-Fi and Content services to the airline industry, and to a lesser extent through the sale of network equipment to airlines. Our chief operating decision maker regularly reviews revenue and contribution profit on a segment basis, and our results of operations and pre-tax income or loss on a consolidated basis in order to gain more depth and understanding of the key business metrics driving our business. Accordingly, we report revenue and contribution profit for these segments separately.

For the six months ended June 30, 2016 and 2015, we reported revenue of \$226.1 million and \$202.7 million, respectively. For the six months ended June 30, 2016 and 2015, our Content operating segment accounted for 72% of our total revenue, and our Connectivity operating segment accounted for 28%. For the six months ended June 30, 2016 and 2015, one airline customer, Southwest Airlines, accounted for 24% and 25% of our consolidated revenue, respectively.

## Recent Developments

Effective July 27, 2016, the Company completed the purchase of EMC, a land and maritime satellite communications company, in exchange for stock, cash and the assumption of certain legacy EMC debt. See Note 14, Subsequent Events, in the accompanying financial statements, and also Liquidity and Capital Resources for a discussion of the indebtedness we assumed in connection with our acquisition of EMC (the "EMC Acquisition") and Part II, Item 1A. Risk Factors for a discussion of the risks associated with such increased indebtedness. The Company also assumed EMC's outstanding litigation matters in connection with the EMC Acquisition. See Part II, Item 1A. Risk Factors for a discussion of the risks associated with such litigation. We expect that EMC's maritime and land businesses will comprise a separate service line within our Connectivity reporting segment.

## Basis of Presentation

This analysis is presented on a consolidated basis. In addition, a brief description is provided of significant transactions and events that have an impact on the comparability of the results being analyzed.

## Opportunities, Challenges and Risks

For the six months ended June 30, 2016 and 2015, we derived our revenue primarily through licensing and related services from our Content operating segment, and secondarily from Wi-Fi Internet service and the sale of equipment to airlines from our Connectivity operating segment. For the six months ended June 30, 2016 and 2015, the vast majority of our equipment and Wi-Fi Internet service revenue were generated by two airlines, Southwest Airlines and Norwegian Air Shuttle.

We believe that our operating results and performance are driven by various factors that affect the commercial travel industry, including general macroeconomic trends affecting the travel industry, trends affecting our target user base, regulatory changes, competition and the rate of passenger adoption of our services, as well as factors that affect Wi-Fi Internet service providers in general. Growth in our Content and Connectivity operating segments is principally dependent upon the number of customers that implement our services, our ability to negotiate favorable economic terms with our customers and partners, and the number of passengers who use our services. Growth in our margins is dependent on our ability to manage the costs associated with implementing and operating our services, including the costs of licensing and distributing content, equipment and satellite service. Our ability to attract and retain new and existing customers will be highly dependent on our abilities to implement our services on a timely basis and continually improve our network and operations as technology changes and as we experience increased network capacity constraints as we continue to grow.

As technology continues to evolve, we believe that there are opportunities to expand our services by adding more content in a greater variety of formats. Currently, our Content and Connectivity operating segments are separate platforms; however, we believe there is an opportunity to diversify our revenue long term by cross leveraging these services, including offering a greater variety of premium paid content across our Connectivity platform. For example, we acquired Advanced Inflight Alliance AG ("AIA"), Post Modern Edit, LLC and related entities (collectively, "PMG") and Travel Entertainment Group Equity Limited and subsidiaries (collectively, "IFES") in 2013 to accelerate our paid premium content opportunity. During 2014, we launched a newly developed system that enables airlines to provide in-cabin Wi-Fi delivery of content to airline passengers' hand-held personal devices. Conversely, the evolution of technology presents an inherent risk to our Content and Connectivity operating segments. We

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continue to see opportunities to expand our connectivity services in parts of the world and will need to make substantial investments to improve our current service offerings. As a result, during 2015, we entered into a long-term development project with QEST to develop new global antenna technologies, and more recently expanding this effort to include Ka-band antenna development. We expect to continue making significant product development investments to our existing connectivity technology solutions to address these opportunities. Our Connectivity platform utilizes leading satellite Ku-band systems and equipment today; however, with the introduction and evolution of more competitive technologies such as GSM solutions, our current technology may change, or become obsolete, too expensive and/or outdated. On October 24, 2014, we entered into an agreement with New Skies Satellites B.V. ("SES") for satellite capacity for the period that began in the first half of 2015 and continues for ten years after the launch of a Ku-HTS satellite. The agreement with SES provides us with global satellite coverage and the ability to participate in future technology improvements in Ku-band satellite solutions. In February 2015, we modified the terms of our current agreements with SES and Hughes Network Systems, LLC ("Hughes") to formalize a satellite capacity ordering structure whereby the Company will order SES-sourced satellite capacity through Hughes and Hughes will provide satellite performance and satellite coverage evaluation services to the Company. However, there is no guarantee that our existing or future satellite providers or solutions will be adequate to enable us to compete effectively with our competitors, and as a result we may lose customers to our competitors who offer more technologically evolved and/or less costly connectivity systems in the future. Lastly, the future growth in our Content operating segment relies heavily on our customers continuing to utilize onboard in-flight entertainment ("IFE") systems for their passengers to watch media content. With the emergence and increased use of hand-held personal devices by passengers, our customers may decide to decrease the media content onboard IFE systems, and/or discontinue the use of IFE systems indefinitely. This would adversely impact the future growth of our Content operating segment.

The use of our connectivity equipment on our customer's airplanes is subject to regulatory approvals, such as a Supplemental Type Certificate ("STC") that are imposed by agencies such as the Federal Aviation Agency ("FAA") and the European Aviation Safety Agency ("EASA"). The costs to obtain an STC can be significant and vary by plane type and customer location. We have STCs to operate our equipment on several plane types, including Boeing's 737, 757, 767 and 777 families, and for the Airbus A320 family. While we believe we will be successful in obtaining STC approvals in the future as needed, there is a risk that neither the FAA nor EASA will approve an STC on a timely basis, if at all, and as a result, it could negatively impact our growth, relationships, and ability to deploy our future connectivity services with our customers. To partially address the risk and costs of obtaining STCs in the future, we signed an agreement with Boeing for offering our connectivity equipment on a line-fit basis for Boeing's 737 MAX and 787 models, and our Connectivity equipment is available as an option on new Boeing 737 airplanes. We also expect to undertake similar line-fit initiatives with other plane manufacturers such as Airbus in the near term. As a result, we expect to continue incurring significant product development expenses in the foreseeable future as we invest in these long-term line-fit opportunities, which we believe will improve our long-term ability to onboard our connectivity equipment on new plane types in a more scalable and cost-effective manner.

We are significantly dependent on certain key suppliers. Through June 30, 2016, our Connectivity operating segment has purchased its satellite bandwidth from two suppliers (Hughes and SES), which also provide us with certain equipment and servers required to deliver the satellite stream, rack space at the supplier's data centers to house the equipment and servers and network operations service support. We also purchase radomes, satellite antenna systems and rings from single suppliers. Any interruption in supply from these significant vendors could have a material impact on our ability to provide connectivity services to airline customers.

The growth of our Content segment is based upon a number of factors, including the growth of IFE systems, our customers' demand for content and games, the general availability of content to license from our studio partners, pricing from our competitors and our ability to manage the underlying economics of content licensing by studio. While we believe that the amount of IFE systems and customer demand for content and games will continue to grow in the foreseeable future, we expect the overall growth in our Content segment to be more consistent with the overall IFE market growth in the near term.

The growth of our Connectivity segment is based upon a number of factors, including the rates at which we grow the number of installed base of connectivity systems from new and existing customers, customer demand for connectivity services, government regulations and approvals, passenger adoption, growth, take rates, and overall usage of our connectivity services, the general availability and pricing of satellite bandwidth globally, pricing pressures from our competitors, general travel industry trends, new and competing connectivity technologies, and our ability to manage the underlying economics of connectivity services on a global basis. In February 2015, we raised capital through a private placement of convertible senior notes, a portion of which proceeds we are using for equipment financing arrangements. The long-term economics of any future agreement involving equipment financing could positively or negatively impact our liquidity, growth, Connectivity margins, relationships, and ability to deploy our future connectivity services with current or future customers.

Our consolidated cost of sales, the largest component of our operating expenses, can vary from period to period, particularly as a percentage of revenue, based upon the mix of the underlying equipment and service revenues we generate. In addition, our

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consolidated cost of sales will vary period to period as we acquire new customers and to accommodate the growth of our connectivity segment. During the year ended December 31, 2015, the growth from our Connectivity segment improved our overall operating margins. As a result, our cost of sales as a percentage of our revenue improved throughout 2015 as compared to 2014. Beginning in the second half of 2015 throughout the first half of 2016, we increased our investment in satellite capacity over North America and the Middle East to facilitate the growth of our existing and new connectivity customer base, which included a \$6.7 million and \$4.9 million capital purchase of satellite transponders during the three months ended September 30, 2015 and March 31, 2016, respectively. Depending on the timing of our satellite expenditures, our consolidated cost of sales as a percentage of our revenue may fluctuate from period to period.

In July 2013, our customer Southwest Airlines announced “TV Flies Free” under which Southwest Airlines passengers using Internet-ready personal devices have free access to live television and up to 75 on-demand shows on the airline's more than 400 Wi-Fi-enabled aircraft powered by us. TV Flies Free initially was exclusively sponsored by DISH Network Corporation through December 31, 2014. In 2015, new sponsors including JPMorgan Chase & Co. were obtained for TV Flies Free. A significant amount of the revenue we generate from the TV Flies Free program is indirectly provided by the program's sponsors. Should sponsorship revenue not be available to Southwest Airlines from third parties, Southwest Airlines is under no contractual obligation to offer free access to live television and on-demand shows to its passengers. As a result, there can be no assurance that we will continue to receive the same level of revenue from Southwest Airlines and Connectivity service revenue in future periods may fluctuate accordingly.

During the third quarter of 2015, we completed acquisitions of Western Outdoor Interactive (“WOI”), certain assets from RMG Networks Holding Corporation (the “RMG Assets”), masFlight, Inc. and navAero, Inc. for an aggregate cash purchase price of \$60.2 million, including \$5.0 million of cash paid as contingent consideration. WOI and the RMS Assets were acquired to strengthen and increase the scope of our service offerings, including expanding our digital media and content services, and providing us with increased integrated solutions to meet the digital media and content service demands of the airline and maritime markets. masFlight, the industry's leading operational data analytics platform, and navAero, the industry's leading developer of cutting-edge EFB (Electronic Flight Bag) and cockpit data solutions together form the foundation of our operations solutions services business, leveraging next-generation aircraft connectivity to create a revolutionary new platform that helps airlines improve operations, realize cost efficiencies, and enhance the overall passenger experience. During the second half of 2015, the aggregate financial results from these acquisitions were not significant in comparison to our existing operations. However, we believe the long-term growth opportunities are significant for our digital media and operations solutions services, and as a result we are making significant operating investments throughout 2016 to facilitate these long-term growth opportunities.

In 2014, we commenced integration and formal restructuring activities of our 2013 acquisitions of AIA, PMG and IFES to support future growth. In September 2014, we announced and commenced our formal restructuring plan (the “Restructuring Plan”), and we began realizing significant cost savings from the Restructuring Plan during 2015. We completed the implementation of the Restructuring Plan before the end of 2015. In addition, in the first halves of 2015 and 2016, we initiated further integration activities that we believe will help us to further accelerate our operating margin in 2016 and beyond.

For the years ended December 31, 2015 and 2014, a substantial amount of our Connectivity revenue was derived from a single airline (Southwest Airlines) based in the United States. While our Connectivity revenue is currently primarily generated through an airline based in the United States, we believe that there is a substantial opportunity in the long-term for us to significantly expand our Connectivity operating segment's service offerings to airlines based in countries outside of the United States. In 2014, we announced partnerships in Europe with Orange and in Asia with China Telecom Communications Co., LTD and IP Star International PTE Limited, an affiliate of Thaicom, to jointly work to expand our Connectivity services within the broader European and Asia markets. In June 2015, we announced a new Connectivity agreement with Dubai Aviation Corporation (“flydubai”), an airline based in the Middle East. In December 2015, we announced a new Connectivity agreement with Shareco, a joint venture between China's Hainan Airlines and Beijing Capital Airlines. In February 2016, we announced a partnership with India's Jet Airways to provide IFE streaming services and connectivity services.

We plan to further expand our Connectivity operations internationally to address these opportunities. As we expand our business further internationally in places such as the Middle East, Asia Pacific and Latin America, we will continue to incur significant incremental upfront expenses associated with these growth opportunities.

### **Key Components of Consolidated Statements of Operations**

The following briefly describes certain key components of revenue and expenses as presented in our consolidated statements of operations.

## **Revenue**

Our revenue is derived from our Connectivity and Content operating segments.

### *Connectivity Segment*

We currently generate our Connectivity revenue through the sale of equipment and through our Wi-Fi Internet and related service offerings. Our equipment revenue is based on the sale and corresponding support of our connectivity equipment to our commercial airline customers. Our service revenue is based on the fees paid by customers and/or their passengers for the delivery of in-flight services, such as Internet access and live television, and to a lesser extent from revenue sharing arrangements with customers for Internet based services used by their passengers, such as shopping.

Where we enter into revenue sharing arrangements with our customers, and we act as the primary obligor, we report the underlying revenue on a gross basis in our consolidated statements of operations, and record the revenue-sharing payments to our customers in costs of sales. In determining whether to report revenue gross for the amount of fees received from our customers, we assess whether we maintain the principal relationship, bear credit risk and have latitude in establishing prices with the airlines.

Included in our Connectivity service revenue are periodic service level credits, which vary from customer to customer and are based on the contracted service levels we provide over any given period.

### *Content Segment*

A significant amount of our Content revenue is generated from licensing of acquired and third party media content, video and music programming, applications, and video games to the travel industry, and to a lesser extent from services ranging from selection, purchase, production, customer support and technical adjustment of content in connection with the integration and servicing of IFE programs. Our Content licensing revenue is based upon individual licensing agreements with cusotmers to deliver and air content over specified terms. Content services revenue, such as technical services, the encoding of video products, development of graphical interfaces or the provision of materials, is priced on specific services contracted for and recognized as services are performed.

## **Operating Expenses**

Operating expenses consist of cost of sales, sales and marketing, product development, general and administrative, and amortization of intangible assets. Included in our operating expenses are stock based compensation and depreciation expenses associated with our capital expenditures.

### **Cost of Sales**

#### *Connectivity Segment Cost of Sales*

Connectivity segment cost of sales consists of the costs of our equipment and services.

*Equipment.* Equipment costs of sales are substantially comprised of the costs paid to procure our equipment for services. Equipment costs are principally comprised of the costs we pay to third parties to facilitate our equipment orders, and are originally classified as inventory on our balance sheet upon receipt of goods. Upon sale, equipment costs of sales are recorded when title and risk of loss pass to the customer, which is aligned with our equipment revenue recognition. As we continue to grow our installed base of Connectivity customers throughout 2016 and beyond, coupled with our recent decision to provide a new customer with upfront financial incentives on our equipment, we expect our equipment sales and the corresponding equipment costs of sales not to be comparable to historical results.

*Services.* Service costs of sales principally consist of the costs of satellite service and support, revenue recognized by us and shared with others as a result of our revenue-sharing arrangements, Internet connection and co-location charges and other platform operating expenses including depreciation of the systems and hardware used to build and operate our platform; and personnel costs related to our network operations, customer service and information technology. As we continue to build out our Connectivity services platform and expand our satellite coverage globally, we anticipate that our service costs will increase when compared to historical periods. Our services cost of sales are dependent on a number of factors, including the amount of satellite coverage and bandwidth required to operate our services and the number of partners with whom we share our corresponding revenue.

*Content Segment Cost of Sales*

Content segment cost of sales principally consists of licensing fees paid to acquire content rights for the airline industry, and to a lesser extent service and personnel costs to support our Content business.

*Sales and Marketing*

Sales and marketing expenses consist primarily of sales and marketing personnel costs, sales support, public relations, advertising, marketing and general promotional expenditures. Fluctuations in our sales and marketing expenses are generally the result of our efforts to support the growth in our businesses, including expenses required to support the expansion of our direct sales force. We currently anticipate that our sales and marketing expenses will continue to increase throughout 2016, but remain consistent as a percent of revenue when compared to 2015, as we continue to grow our sales and marketing organizations and invest in marketing activities to support the growth of our businesses.

*Product Development*

Product development expenses consist primarily of expenses incurred in our software engineering, product development and web portal design activities and related personnel costs. Fluctuations in our product development expenses are generally the result of hiring personnel to support and develop our platform, including the costs to further develop our Connectivity segment platform, timing and scope of our STC efforts, new connectivity product offerings, expenses associated with line-fit offerability and network operations. We currently anticipate that our product development expenses will increase in 2016 as we continue to hire more product development personnel and further develop our products and offerings to support the growth of our business. However, in 2016, we expect our product development expense as a percentage of revenue to be comparable to 2015.

*General and Administrative*

General and administrative expenses consist primarily of personnel costs from our executive, legal, finance, human resources and information technology organizations and facilities related expenditures, as well as third party professional fees, insurance and bad debt expenses. Professional fees are largely comprised of outside legal, accounting audit, information technology consulting and legal settlements.

*Provision for Legal Settlements*

During the six months ended June 30, 2016, the Company incurred a one-time charge of \$40.1 million for potential settlement with major record labels to settle sound recording liabilities. The Company has also engaged in settlement negotiations with airlines regarding related liabilities.

*Restructuring*

During the third quarter ended September 30, 2014, the Company implemented a plan to improve operational efficiencies, which included the closure of its German-based operations and facilities, centralization of its international financial operations, and realignment of its international and U.S. tax structure. During 2014, in conjunction with the Restructuring Plan, the Company committed to a reduction in force. As of September 23, 2014, the Company communicated the reduction to affected employees. The Company completed the implementation of its Restructuring Plan before the end of 2015.

The Company incurred a total of \$4.7 million of restructuring charges in connection with the Restructuring Plan, including:

- (1) \$2.7 million total expenses relating to employee termination benefits, which primarily included severance and transitional-related expenses.
- (2) In connection with the closure of its German operations pursuant to the Restructuring Plan, the Company disposed of approximately 11,000 square feet of leased facilities in Duisburg and Munich, Germany, representing approximately 6% of its global facilities square footage. The Company incurred an aggregate of approximately \$0.4 million of facilities disposal charges pursuant to the Restructuring Plan.
- (3) \$1.6 million of legal and professional fees associated with the execution of the Restructuring Plan.

### ***Amortization of Intangibles***

The Company determines the appropriate useful life of intangible assets by performing an analysis of expected cash flows based on its historical experience of intangible assets of similar quality and value. We expect amortization expense to fluctuate in the near term as we increase identifiable intangible assets acquired in the acquisitions made in the second half of 2015. Amortization as a percentage of revenue will depend upon a variety of factors, such as the amounts and mix of our identifiable intangible assets acquired in business combinations.

### ***Stock-Based Compensation***

Included in our operating expenses are expenses associated with stock-based compensation, which are allocated and included in cost of sales, sales and marketing, product development and general and administrative expenses as necessary. Stock-based compensation expense is largely comprised of costs associated with stock options and restricted stock units granted to our directors, employees and consultants. We record the fair value of these equity-based awards and expense at their cost ratably over related vesting periods. In addition, stock-based compensation expense includes the cost of options to purchase common stock issued to certain non-employees.

### ***Other Income (Expense)***

Other income (expense) principally consists of changes in the fair value of our derivative financial instruments, interest on outstanding debt associated with our convertible senior notes issued in February 2015 and our foreign notes payable, interest earned on cash balances and short-term investments, income or loss from our equity-method investments and certain unrealized transaction gains and losses on foreign currency denominated assets and liabilities. We typically invest our available cash balances in money market funds and short-term United States Treasury obligations.

### ***Provision for Income Taxes***

Since our inception, we have been subject to income taxes principally in the United States, and more recently with the acquisition of AIA in January 2013, PMG in July 2013, IFES in October 2013, WOI in 2015 and NavAero in 2015, in other countries where we have a legal presence, including Germany, the United Kingdom, the Netherlands, Canada, China, India, Hong Kong, Sweden and the United Arab Emirates. We anticipate that as we continue to expand our operations outside the United States, we will become subject to taxation based on foreign statutory rates and our effective tax rate could fluctuate accordingly.

Income taxes are computed using the asset and liability method, under which deferred tax assets and liabilities are determined based on the difference between the financial statement and tax bases of assets and liabilities using enacted tax rates in effect for the year in which the differences are expected to affect taxable income. Valuation allowances are established when necessary to reduce deferred tax assets to the amount expected to be realized.

### **Critical Accounting Policies and Estimates**

The preparation of our condensed consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the amounts reported in the financial statements and the notes to the financial statements. Some of those judgments can be subjective and complex, and therefore, actual results could differ materially from those estimates under different assumptions or conditions. A summary of our critical accounting policies is presented in Part II, Item 7, of our Annual Report on Form 10-K for the year ended December 31, 2015. There have been no material changes to our critical accounting policies during the three months ended June 30, 2016.

## Results of Operations

The following tables set forth our results of operations for the periods presented. The period-to-period comparison of financial results is not necessarily indicative of future results (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2016	2015	2016	2015
Revenue	\$ 112,265	\$ 102,376	\$ 226,082	\$ 202,681
Operating expenses:				
Cost of sales	75,086	66,083	151,854	135,509
Sales and marketing expenses	6,491	4,964	11,163	8,239
Product development	8,416	6,451	17,162	13,681
General and administrative	18,447	17,576	37,667	35,695
Provision for legal settlements	38,142	750	40,143	750
Amortization of intangible assets	7,486	6,005	14,889	11,988
Restructuring charges	—	—	—	302
Total operating expenses	154,068	101,829	272,878	206,164
(Loss) income from operations	(41,803)	547	(46,796)	(3,483)
Other income (expense):				
Interest expense, net	(613)	(583)	(1,417)	(828)
Change in fair value of derivatives	10,926	14,789	16,791	15,743
Other expense, net	(5,934)	(443)	(5,254)	(1,239)
(Loss) income before income taxes	(37,424)	14,310	(36,676)	10,193
Income tax expense	736	1,323	3,896	637
Net (loss) income	\$ (38,160)	\$ 12,987	\$ (40,572)	\$ 9,556
Net (loss) income per common share - basic	\$ (0.49)	\$ 0.17	\$ (0.52)	\$ 0.12
Net (loss) per common share - diluted	\$ (0.49)	\$ (0.02)	\$ (0.52)	\$ (0.08)
Weighted average common shares - basic	78,127	77,111	78,385	76,993
Weighted average common shares - diluted	78,127	78,518	78,385	78,623

The following table provides the depreciation expense included in the above line items (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2016	2015	2016	2015
Cost of sales	\$ 1,215	\$ 670	\$ 2,398	\$ 1,337
Sales and marketing	456	251	729	403
Product development	590	326	1,120	669
General and administrative	1,301	927	2,459	1,798
Total depreciation expense	\$ 3,562	\$ 2,174	\$ 6,706	\$ 4,207

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The following table provides the stock-based compensation expense included in the above line items (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2016	2015	2016	2015
Stock-based compensation expense:				
Cost of sales	\$ 74	\$ 124	\$ 150	\$ 165
Sales and marketing expenses	112	338	279	364
Product development	246	196	494	509
General and administrative	1,761	894	3,339	3,064
Total stock-based compensation expense	\$ 2,193	\$ 1,552	\$ 4,262	\$ 4,102

The following table provides our results of operations, as a percentage of revenue, for the periods presented:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2016	2015	2016	2015
Revenue	100 %	100%	100 %	100 %
Operating expenses:				
Cost of sales	67 %	65%	67 %	67 %
Sales and marketing expenses	6 %	5%	5 %	4 %
Product development	7 %	6%	8 %	7 %
General and administrative	16 %	17%	17 %	18 %
Provision for legal settlements	34 %	1%	18 %	— %
Amortization of intangible assets	7 %	6%	7 %	6 %
Restructuring charges	— %	—%	— %	— %
Total operating expenses	137 %	99%	121 %	102 %
(Loss) income from operations	(37)%	1%	(21)%	(2)%
Other income (expense), net	4 %	13%	4 %	7 %
(Loss) income before income taxes	(33)%	14%	(16)%	5 %
Income tax expense	1 %	1%	2 %	— %
Net (loss) income attributable to common stockholders	(34)%	13%	(18)%	5 %

### Three Months Ended June 30, 2016 Compared To Three Months Ended June 30, 2015

#### Operating Segments

Segment revenue, expenses and contribution profit for the three months ended June 30, 2016 and 2015 derived from the Company's Content and Connectivity segments were as follows (in thousands):

	Three Months Ended June 30,					
	2016			2015		
	Content	Connectivity	Consolidated	Content	Connectivity	Consolidated
<b>Revenue:</b>						
Licensing and services	\$ 78,710	\$ 27,170	\$ 105,880	\$ 73,814	\$ 24,563	\$ 98,377
Equipment	—	6,385	6,385	—	3,999	3,999
<b>Total revenue</b>	<b>78,710</b>	<b>33,555</b>	<b>112,265</b>	<b>73,814</b>	<b>28,562</b>	<b>102,376</b>
<b>Operating expenses:</b>						
Cost of sales	52,940	22,146	75,086	48,047	18,036	66,083
<b>Contribution profit</b>	<b>25,770</b>	<b>11,409</b>	<b>37,179</b>	<b>25,767</b>	<b>10,526</b>	<b>36,293</b>
Other operating expenses			78,982			35,746
<b>(Loss) income from operations</b>			<b>\$ (41,803)</b>			<b>\$ 547</b>

#### Revenue

Connectivity operating segment revenue was as follows (in thousands):

	Three Months Ended June 30,		% Change
	2016	2015	2016 to 2015
Services	\$ 27,170	\$ 24,563	11%
Equipment revenue	6,385	3,999	60%
<b>Total revenue Connectivity segment</b>	<b>\$ 33,555</b>	<b>\$ 28,562</b>	<b>17%</b>

#### Connectivity Service Revenue

Connectivity service revenue increased \$2.6 million, or 11%, to \$27.2 million for the three months ended June 30, 2016, as compared to \$24.6 million for the three months ended June 30, 2015. The increase in Connectivity service revenue was due to various factors, including a higher base of Wi-Fi installed planes, increases in passenger usage rates, and overall improvements in network performance, offset by a slight decline in sponsorship revenue during the three months ended June 30, 2016 as compared to the three months ended June 30, 2015.

#### Connectivity Equipment Revenue

Connectivity equipment revenue increased by \$2.4 million, or 60%, to \$6.4 million for the three months ended June 30, 2016, as compared to \$4.0 million for the three months ended June 30, 2015. The \$2.4 million increase was primarily due to the timing of equipment shipments on newly commissioned airplanes, coupled with EFB equipment sales from our third quarter 2015 acquisition of navAero.

Content operating segment revenue was as follows (in thousands):

	Three Months Ended June 30,		% Change
	2016	2015	2016 to 2015
Licensing revenue	\$ 78,710	\$ 73,814	7%

*Content Licensing Revenue*

Content licensing revenue increased \$4.9 million, or 7%, to \$78.7 million for the three months ended June 30, 2016 as compared to \$73.8 million for the three months ended June 30, 2015. The \$4.9 million increase was largely due to growth in content license revenue from new and existing content customers, increased revenue from advertising on inflight entertainment systems and airline lounges, and revenue from new acquisitions, offset by declines in content distribution during the three months ended June 30, 2016 as compared to the three months ended June 30, 2015.

**Cost of Sales**

Connectivity operating segment cost of sales was as follows (in thousands):

	<b>Three Months Ended June 30,</b>		<b>% Change</b>
	<b>2016</b>	<b>2015</b>	<b>2016 to 2015</b>
Service cost of sales	\$ 17,195	\$ 14,378	20%
Equipment cost of sales	4,951	3,658	35%
<b>Total Connectivity cost of sales</b>	<b>\$ 22,146</b>	<b>\$ 18,036</b>	<b>23%</b>

Connectivity cost of sales increased \$4.1 million, or 23%, to \$22.1 million for the three months ended June 30, 2016 compared to \$18.0 million for the three months ended June 30, 2015 primarily due to a \$2.8 million increase in Connectivity service cost of sales due to higher satellite bandwidth expenses to support our installed plane growth over North America and the Middle East, coupled with a \$1.3 million increase in equipment cost of sales as a result of higher equipment shipments on newly commissioned airplanes.

As a percentage of Connectivity equipment revenue, Connectivity equipment cost of sales improved 1,300 basis points, to 78% from 91% during the three months ended June 30, 2016 and June 30, 2015, respectively. The improvement was largely driven by a higher mix of customer shipments with more favorable pricing terms.

As a percentage of Connectivity service revenue, Connectivity service cost of sales increased 400 basis points to 63% during the three months ended June 30, 2016, as compared to 59% for the three months ended June 30, 2015. The period to period change in contribution margin was principally due to the addition of fixed Connectivity bandwidth costs ahead of corresponding revenue, namely in international regions such as the Middle East, coupled with the previously discussed decline in sponsorship revenue during the three months ended June 30, 2016 as compared to the three months ended June 30, 2015.

Content operating segment cost of sales was as follows (in thousands):

	<b>Three Months Ended June 30,</b>		<b>% Change</b>
	<b>2016</b>	<b>2015</b>	<b>2016 to 2015</b>
Content cost of sales	\$ 52,940	\$ 48,047	10%

Content cost of sales increased \$4.9 million, or 10%, to \$52.9 million for the three months ended June 30, 2016, as compared to \$48.0 million for the three months ended June 30, 2015. The increase was due largely to the increased licensing and services revenue from new and existing Content customers, coupled with increases from new advertising and recent acquisitions.

As a percentage of Content revenue, Content cost of sales was relatively flat at 67% during the three months ended June 30, 2016 as compared to 65% in the three months ended June 30, 2015.

**Other Operating Expenses**

Other operating expenses were as follows (in thousands):

	Three Months Ended June 30,		% Change
	2016	2015	2016 to 2015
Sales and marketing expenses	\$ 6,491	\$ 4,964	31%
Product development	8,416	6,451	30%
General and administrative	18,447	17,576	5%
Provision for legal settlements	38,142	750	4,986%
Amortization of intangible assets	7,486	6,005	25%

***Sales and Marketing Expenses***

Sales and marketing expenses increased \$1.5 million, or 31%, to \$6.5 million for the three months ended June 30, 2016 as compared to \$5.0 million for the three months ended June 30, 2015. The increase was driven by a \$1.3 million increase in sales personnel costs driven by acquisitions in the second half of 2015, a \$0.3 million increase in various marketing initiatives and \$0.2 million increase in depreciation expense, partially offset by decreases in stock-based compensation of \$0.2 million and professional services of \$0.1 million.

***Product Development***

Product development expense increased \$2.0 million, or 30%, to \$8.4 million for the three months ended June 30, 2016 compared to \$6.5 million for the three months ended June 30, 2015. The year-over-year increase was due to increases of \$1.2 million for consultants and professional services related to product development initiatives such as our global antenna, Boeing line-fit and STC deployments, \$0.9 million for personnel costs, including travel, and a \$0.3 million increase in depreciation expense, partially offset by a \$0.4 million decrease in trade shows and marketing-related costs.

***General and Administrative***

General and administrative costs increased \$0.9 million, or 5%, to \$18.4 million during the three months ended June 30, 2016 compared to \$17.6 million for the three months ended June 30, 2015. The increase was mainly due to a \$1.0 million increase in personnel-related costs, including travel, a \$1.2 million increase in non-cash stock-based compensation and depreciation expense, and a net \$1.8 million increase in professional fees and occupancy costs largely driven by recent acquisition activities, partially offset by a \$1.1 million decrease in bad debt expense and a decrease of \$2.0 million in estimated earn-out liabilities for a prior acquisition.

***Provision for Legal Settlements***

The provision for legal settlements increased \$37.4 million to \$38.1 million during the three months ended June 30, 2016 compared to \$0.8 million for the three months ended June 30, 2015. The increase was mainly due to a one-time charge of \$38.1 million accrued during the three months ended June 30, 2016 for potential settlement with major record labels, including UMG, to settle sound recording liabilities. The Company has also engaged in settlement negotiations with airlines regarding related liabilities.

***Amortization of Intangible Assets***

Amortization expense increased \$1.5 million, or 25%, to \$7.5 million during the three months ended June 30, 2016 as compared to \$6.0 million for the three months ended June 30, 2015. The increase was due to the additional intangible assets acquired during the third quarter of 2015.

**Restructuring Charges**

There were no restructuring charges during the three months ended June 30, 2016 or June 30, 2015, as the restructuring plan was completed in the three months ended March 31, 2015.

**Other Income (Expense), net**

Other income (expense), net was income of \$4.4 million during the three months ended June 30, 2016 compared to \$13.8 million for the three months ended June 30, 2015. The \$9.4 million decrease is principally due to a \$10.9 million decline in fair value of the Company's Public SPAC Warrants during the three months ended June 30, 2016 compared to a \$14.8 million decline in the three months ended June 30, 2015, a one-time \$4.6 million impairment of a related party note receivable and accrued interest and a \$0.9 million fixed asset impairment during the three months ended June 30, 2016.

**Income Tax Expense**

Income tax expense was \$0.7 million for the three months ended June 30, 2016 compared to \$1.3 million for the three months ended June 30, 2015. The tax provision during the three months ended June 30, 2016 is primarily attributable to changes in state and foreign income taxes resulting from fluctuations in our foreign subsidiaries' contribution to pretax income and effects of permanent differences.

**Six Months Ended June 30, 2016 Compared To Six Months Ended June 30, 2015**

Segment revenue, expenses and contribution profit for the six months ended June 30, 2016 and 2015 derived from the Company's Content and Connectivity segments were as follows (in thousands):

	Six Months Ended June 30,					
	2016			2015		
	Content	Connectivity	Consolidated	Content	Connectivity	Consolidated
<b>Revenue:</b>						
Licensing & Service	\$ 162,316	\$ 51,395	\$ 213,711	\$ 145,463	\$ 46,764	\$ 192,227
Equipment	—	12,371	12,371	—	10,454	10,454
<b>Total revenue</b>	<b>162,316</b>	<b>63,766</b>	<b>226,082</b>	<b>145,463</b>	<b>57,218</b>	<b>202,681</b>
<b>Operating expenses:</b>						
Cost of sales	108,577	43,277	151,854	98,049	37,460	135,509
<b>Contribution profit</b>	<b>53,739</b>	<b>20,489</b>	<b>74,228</b>	<b>47,414</b>	<b>19,758</b>	<b>67,172</b>
Other operating expenses			121,024			70,655
<b>Loss from operations</b>			<b>\$ (46,796)</b>			<b>\$ (3,483)</b>

**Revenue**

Connectivity revenue was as follows (in thousands):

	Six Months Ended June 30,		% Change
	2016	2015	2016 to 2015
Services	\$ 51,395	\$ 46,764	10%
Equipment revenue	12,371	10,454	18%
<b>Total revenue Connectivity segment</b>	<b>\$ 63,766</b>	<b>\$ 57,218</b>	<b>11%</b>

**Connectivity Service Revenue**

Connectivity service revenue increased \$4.6 million, or 10%, to \$51.4 million for the six months ended June 30, 2016, as compared to \$46.8 million for the six months ended June 30, 2015. The increase in Connectivity service revenue was due to various factors, including a higher base of Wi-Fi installed planes, increases in passenger usage rates, and overall improvements

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in network performance, offset by a slight decline in sponsorship revenue during the six months ended June 30, 2016 as compared to the six months ended June 30, 2015.

#### Connectivity Equipment Revenue

Connectivity equipment revenue increased by \$1.9 million, or 18%, to \$12.4 million for the six months ended June 30, 2016, as compared to \$10.5 million for the six months ended June 30, 2015. The \$1.9 million increase was primarily due to the timing of equipment shipments on newly commissioned airplanes, coupled with EFB equipment sales from our third quarter 2015 acquisition of navAero.

Content operating segment revenue was as follows (in thousands):

	Six Months Ended June 30,		% Change
	2016	2015	2016 to 2015
Licensing revenue	\$ 162,316	\$ 145,463	12%

Content licensing revenue increased \$16.9 million, or 12%, to \$162.3 million for the six months ended June 30, 2016 as compared to \$145.5 million for the six months ended June 30, 2015. The \$16.9 million increase was largely due to growth in content license revenue from new and existing content customers, increased revenue from advertising on inflight entertainment systems and airline lounges, and revenue from new acquisitions, offset by declines in content distribution during the six months ended June 30, 2016 as compared to the six months ended June 30, 2015.

#### Cost of Sales

Connectivity operating segment cost of sales was as follows (in thousands):

	Six Months Ended June 30,		% Change
	2016	2015	2016 to 2015
Service cost of sales	\$ 32,952	\$ 28,076	17%
Equipment cost of sales	10,325	9,384	10%
Total Connectivity cost of sales	\$ 43,277	\$ 37,460	16%

Connectivity cost of sales increased \$5.8 million, or 16%, to \$43.3 million for the six months ended June 30, 2016 compared to \$37.5 million for the six months ended June 30, 2015 primarily due to a \$4.9 million increase in Connectivity service cost of sales due to higher satellite bandwidth expenses, coupled with a \$0.9 million increase in equipment cost of sales as a result of higher equipment shipments on newly commissioned airplanes.

As a percentage of Connectivity equipment revenue, Connectivity equipment cost of sales improved 700 basis points to 83% as compared to 90% during the six months ended June 30, 2016 versus June 30, 2015, respectively. The improvement was largely driven by a higher mix of customer shipments with more favorable pricing terms.

As a percentage of Connectivity service revenue, Connectivity service cost of sales increased to 64% during the six months ended June 30, 2016, as compared to 60% for the six months ended June 30, 2015. The period to period change in contribution margin was principally due to the addition of fixed Connectivity bandwidth costs ahead of corresponding revenue, namely in international regions such as the Middle East, coupled with the previously discussed decline in sponsorship revenue during the six months ended June 30, 2016 as compared to the six months ended June 30, 2015.

Content operating segment cost of sales was as follows (in thousands):

	Six Months Ended June 30,		% Change
	2016	2015	2016 to 2015
Content cost of sales	\$ 108,577	\$ 98,049	11%

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Content cost of sales increased \$10.5 million, or 11%, to \$108.6 million for the six months ended June 30, 2016, as compared to \$98.0 million for the six months ended June 30, 2015. The increase was due largely to \$4.7 million higher cost of sales as a result of the increased licensing and services revenue from new and existing Content customers. The remaining increase of \$5.8 million resulted largely from new advertising and WOI, which was completed in the third quarter of 2015.

As a percentage of Content revenue, Content cost of sales was flat at 67% during the six months ended June 30, 2016 and 2015.

**Other Operating Expenses**

Other operating expenses were as follows (in thousands):

	Six Months Ended June 30,		% Change
	2016	2015	2016 to 2015
Sales and marketing expenses	\$ 11,163	\$ 8,239	35 %
Product development	17,162	13,681	25 %
General and administrative	37,667	35,695	6 %
Provision for legal settlements	40,143	750	5,252 %
Amortization of intangible assets	14,889	11,988	24 %
Restructuring charges	—	302	(100)%

**Sales and Marketing Expenses**

Sales and marketing expenses increased \$2.9 million, or 35%, to \$11.2 million for the six months ended June 30, 2016 as compared to \$8.2 million for the six months ended June 30, 2015. The increase was driven by a \$2.2 million increase in sales personnel costs and travel primarily driven by acquisitions in the second half of 2015, a \$0.5 million increase in various marketing initiatives and a \$0.3 million increase in depreciation expense, partially offset by decreases in stock-based compensation of \$0.1 million.

**Product Development**

Product development expense increased \$3.5 million, or 25%, to \$17.2 million for the six months ended June 30, 2016 compared to \$13.7 million for the six months ended June 30, 2015. The year-over-year increase was due to increases of \$1.7 million for consultants and professional services related to product development initiatives such as our global antenna, Boeing line-fit and STC deployments, \$1.4 million for personnel costs and a \$0.5 million increase in depreciation expense.

**General and Administrative**

General and administrative costs increased \$2.0 million, or 6%, to \$37.7 million during the six months ended June 30, 2016 compared to \$35.7 million for the six months ended June 30, 2015. The increase was mainly due to a \$2.0 million increase in personnel and travel-related costs largely associated with recent acquisitions and growth, a \$1.6 million increase in professional and consulting fees, a \$0.8 million increase in facilities costs from recent acquisitions and to support our growth over the period, a \$0.7 million increase in depreciation expense and a \$0.3 million increase in stock compensation, partially offset by a \$0.7 million decrease in bad debt expense and a \$3.0 million decrease in earn-out liabilities from past acquisitions.

**Provision for Legal Settlements**

The provision for legal settlements increased \$39.4 million to \$40.1 million during the six months ended June 30, 2016 compared to \$0.8 million for the six months ended June 30, 2015. The increase was mainly due to a one-time charge of \$40.1 million accrued during the six months ended June 30, 2016 for potential settlement with major record labels to settle sound recording liabilities. The Company has also engaged in settlement negotiations with airlines regarding related liabilities.

***Amortization of Intangible Assets***

Amortization expense increased \$2.9 million, or 24%, to \$14.9 million during the six months ended June 30, 2016 as compared to \$12.0 million for the six months ended June 30, 2015. The increase was due to the additional intangible assets acquired during the third quarter of 2015.

***Restructuring Charges***

There were no restructuring charges during the six months ended June 30, 2016 as compared to \$0.3 million during the six months ended June 30, 2015, as the restructuring plan was completed in the three months ended March 31, 2015.

***Other Income (Expense), net***

Other income (expense), net was income of \$10.1 million during the six months ended June 30, 2016 compared to \$13.7 million of income for the six months ended June 30, 2015. The decrease is principally due to a \$4.6 million write off of a related party note receivable and accrued interest, a \$0.9 million impairment for internally developed software during the six months ended June 30, 2016 and higher interest expense of \$0.6 million associated with our convertible senior notes and the amortization of the related discount and issuance costs. These amounts were partially offset by gains on foreign currency transactions during the six months ended June 30, 2016 of \$0.2 million compared to losses of \$1.2 million for the six months ended June 30, 2015 as well as a \$16.7 million decline in fair value of the Company's Public SPAC Warrants during the six months ended June 30, 2016 compared to a \$15.7 million decline in the six months ended June 30, 2015.

***Income Tax Expense***

Income tax expense was \$3.9 million for the six months ended June 30, 2016 compared to \$0.6 million for the six months ended June 30, 2015. The tax provision during the six months ended June 30, 2016 is primarily attributable to changes in state and foreign income taxes resulting from fluctuations in our foreign subsidiaries' contribution to pretax income and effects of permanent differences. The tax provision for the six months ended June 30, 2015 was impacted by benefits realized resulting from internal restructuring during the three months ended March 31, 2015.

## **Liquidity and Capital Resources**

### ***Current Financial Condition***

As of June 30, 2016, our principal sources of liquidity were our cash and cash equivalents in the amount of \$196.7 million, which primarily are invested in cash and money market funds in banking institutions in the U.S., Europe and to a lesser extent in Asia Pacific. Excluded from our cash balance at June 30, 2016 is approximately \$4.0 million of restricted cash that is attached to letters of credit agreements between our subsidiaries and certain airlines. The vast majority of our cash was from the business combination in which the Company acquired Row 44, Inc. ("Row 44") and 86% of the shares of Advanced Inflight Alliance AG ("AIA") in January 2013, our follow-on offering in December 2013 and our convertible senior note offering in February 2015. As of June 30, 2016, we had a notes payable balance of \$1.8 million and outstanding convertible senior notes balance of \$68.7 million, net of the discount associated with the equity component.

Our cash flows from operating activities are significantly affected by our cash-based investments in operations, including working capital, and corporate infrastructure to support our ability to generate revenue and conduct operations through cost of services, product development, sales and marketing and general and administrative activities. Cash used in investing activities has historically been, and is expected to be, impacted significantly by our investments in business combinations, our platform, Company infrastructure and equipment for our business offerings, the net sales and purchases of our marketable securities and changes in our derivative financial instruments. In the third quarter of 2015, we invested significant cash to make additional strategic acquisitions across our Content and Connectivity segments to further grow our business. We expect to make additional strategic acquisitions over time to further grow our business, which may require significant investments in the near and long term. See Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations-Recent Developments. Moreover, during the three months ended March 31, 2016, we acquired additional satellite transponders over North America for an aggregate cost of \$4.9 million, which were paid in full in April 2016. Over the next twelve months, our net use of our working capital could be substantially higher or lower depending on the number and timing of new customers that we add to our Connectivity and Content businesses.

As discussed in our accompanying Financial Statements under "Note 14 Subsequent Events," we acquired Emerging Markets Communications LLC ("EMC") on July 27, 2016. The purchase price, which is subject to customary post-closing working capital and other adjustments, consisted of (i) \$30 million in cash paid at closing, (ii) approximately 5.5 million shares of Company common stock issued at the closing, (iii) the Company's assumption of approximately \$386 million of EMC's indebtedness, (iv) the redemption for cash of approximately \$55 million of existing seller preferred stock and (v) \$25 million in deferred compensation to be paid in cash or newly issued Company common stock (at the Company's option) one year after the closing.

### ***Loan Agreement***

On February 24, 2016, the Company entered into a loan agreement (the "Loan Agreement") with a third party that provides in-flight entertainment systems to airlines (the "Loan Party") for loans by the Company to the Loan Party of up to \$5 million. Borrowings under the Loan Agreement are evidenced by a senior secured promissory note (the "Note") and bear annual interest at a rate of 15%. The outstanding principal amount and all accrued interest thereon are payable in full December 31, 2016. As of June 30, 2016, the outstanding principle balance of the loan was \$4.5 million, inclusive of a \$0.1 million origination fee. Accrued interest receivable on the Senior Secured Promissory Note as of June 30, 2016 was approximately \$0.2 million. As a result of recent information provided by the Loan Party, the Company impaired the Note during the three months ended June 30, 2016 and wrote off the outstanding principal balance of the Note and accrued interest receivable.

### ***Stock Repurchase Program***

In March 2016, the Company's Board of Directors (the "Board") authorized a stock repurchase program under which the Company may repurchase up to \$50.0 million of its common stock. Under the stock repurchase program, the Company may repurchase shares from time to time using a variety of methods, which may include open-market purchases and privately negotiated transactions. The extent to which the Company repurchases its shares, and the timing and manner of such repurchases, will depend upon a variety of factors, including market conditions, regulatory requirements and other corporate considerations, as determined by management. The Company measures all potential buybacks against other potential uses of capital which may arise from time to time. The repurchase program does not obligate the Company to repurchase any specific number of shares, and may be suspended or discontinued at any time. During the three months ended June 30, 2016, we acquired 614,087 shares for consideration of \$5.2 million in the aggregate. As of June 30, 2016, the remaining authorization under the stock repurchase plan was \$44.8 million.

## ***Warrants***

During the year ended December 31, 2014, the Board authorized the Company to repurchase GEE's Public SPAC Warrants for an aggregate purchase price, payable in cash and/or shares of common stock, of up to \$25.0 million (inclusive of certain prior warrant purchases). In August 2015, the Board increased this amount by an additional \$20.0 million. As of June 30, 2016, \$16.5 million was available for warrant repurchases under this authorization. The amount the Company spends and the number of warrants repurchased varies based on a variety of factors including the warrant price.

## ***Debt Instruments***

### ***EMC Indebtedness***

As partial consideration for our acquisition of EMC, we assumed and became guarantors of approximately \$386 million aggregate principal amount of legacy EMC indebtedness. In connection therewith, the Company became a party to (i) a First Lien Credit Agreement, dated as of July 1, 2015, as amended, by and among EMC, Morgan Stanley Senior Funding, Inc., as the Administrative Agent, the guarantors party thereto and the lenders from time to time party thereto (as amended, modified or otherwise supplemented from time to time, the "First Lien Credit Agreement") and (ii) a Second Lien Credit Agreement, dated as of July 1, 2015, as amended, by and among the Borrower, Morgan Stanley Senior Funding, Inc., as the Administrative Agent, the guarantors party thereto and the lenders from time to time party thereto (as amended, modified or otherwise supplemented from time to time, the "Second Lien Credit Agreement" and together with the First Lien Credit Agreement, the "Credit Facilities").

The First Lien Credit Agreement provides for loans in an original aggregate principal amount not to exceed \$319.0 million, comprised of term loans (the "First Lien Term Loans") and revolving loans (the "First Lien Revolving Loans" and together with the First Lien Term Loans, the "First Lien Loans"). Under an Incremental Amendment dated June 29, 2016, the total revolving facility capacity under the First Lien Credit Agreement was increased from \$35.0 million to \$75.5 million. As of the closing of the EMC Acquisition, the outstanding principal amounts of First Lien Term Loans and First Lien Revolving Loans were \$265.3 million and \$29.0 million, respectively, and there was \$6.0 million of undrawn First Lien Revolving Loan capacity under the First Lien Credit Agreement.

Subject to certain exceptions, First Lien Term Loans bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to (i) the Base Rate (as defined in the First Lien Credit Agreement) plus 4.75% or (ii) at a rate per annum equal to the Eurocurrency Rate for each Interest Period (as defined in the First Lien Credit Agreement) plus a percentage per annum equal to 5.75%. Amounts borrowed under the First Lien Term Loans that are repaid or prepaid may not be re-borrowed. In addition, the First Lien Credit Agreement requires quarterly principal amortization payments of 0.25% of the aggregate principal amount outstanding of First Lien Term Loans, subject to reduction as a result of the application of prepayments or cancellation of indebtedness in accordance with the terms of the First Lien Credit Agreement.

First Lien Revolving Loans bear interest at a rate based on the Base Rate, Eurocurrency Rate or EURIBOR Rate, each as defined in the First Lien Credit Agreement (each such loan a "EURIBOR Rate Loan"). Subject to certain exceptions, First Lien Revolving Loans bear interest at varying rates based on the Consolidated First Lien Net Leverage Ratio (as defined in the First Lien Credit Agreement), which ratio ranges from greater than 3.50:1.00 (corresponding to a higher interest rate) to less than or equal to 3.00:1.00 (corresponding to a lower interest rate). The obligations of the First Lien Lenders to make loans under the First Lien Credit Agreement is subject to customary conditions precedent.

Subject to certain conditions, the First Lien Loans may be voluntarily prepaid at any time without penalty or premium. The First Lien Credit Agreement also provides for mandatory prepayments relating to excess cash flow, asset dispositions, incurrence of indebtedness and casualty events, all subject to customary exceptions, conditions and qualifications.

The First Lien Credit Agreement contains customary affirmative and negative covenants, as well as a financial covenant which requires that the Company maintain a certain maximum Consolidated First Lien Net Leverage Ratio (as defined in the First Lien Credit Agreement) measured at the end of each fiscal quarter for the life of the First Lien Loans, which Consolidated First Lien Net Leverage Ratio shall not exceed 3.75 to 1.00 through the fourth fiscal quarter of 2017, 3.50 to 1.00 for each fiscal quarter in 2018, 3.25 to 1.00 for each fiscal quarter in 2019 and 3.00 to 1.00 for each fiscal quarter thereafter until the Latest Maturity Date (as defined in the First Lien Credit Agreement).

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The Second Lien Credit Agreement provides for term loans (each such loan a “Second Lien Term Loan”) in an original aggregate principal amount not to exceed \$92.0 million. As of the closing of the EMC Acquisition, the outstanding principal amount of Second Lien Term Loans was \$92.0 million.

Second Lien Term Loans bear interest at a rate based on (i) the Base Rate, as defined in the Second Lien Credit Agreement (each such loan, a “Second Lien Base Rate Loan”), or (ii) the Eurocurrency Rate, as defined in the Second Lien Credit Agreement (each such loan, a “Second Lien Eurocurrency Loan”). Subject to certain exceptions set forth in the Second Lien Credit Agreement, (i) each Second Lien Base Rate Loan bears interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus 8.625% and (ii) each Second Lien Eurocurrency Loan bears interest on the outstanding principal amount thereof for each Interest Period (as defined in the Second Lien Credit Agreement) at a rate per annum equal to the Eurocurrency Rate for such Interest Period plus a percentage per annum equal to 9.625%. Amounts borrowed under the Second Lien Credit Agreement that are repaid or prepaid may not be re-borrowed.

The Second Lien Credit Agreement provides for mandatory prepayments relating to excess cash flow, asset dispositions, incurrence of indebtedness and casualty events, all subject to customary exceptions, conditions and qualifications.

The Second Lien Credit Agreement contains customary affirmative and negative covenants of the Second Lien Loan Parties, as well as a financial covenant which requires that the Company maintain a certain maximum Consolidated Total Net Leverage Ratio (as defined in the Second Lien Credit Agreement) measured at the end of each fiscal quarter for the life of the Second Lien Loans, which Consolidated Total Net Leverage Ratio shall not exceed 5.75 to 1.00 through the fourth fiscal quarter in 2017, 5.50 to 1.00 for each fiscal quarter in 2018, 5.25 to 1.00 for each fiscal quarter in 2019 and 5:00 to 1:00 for each fiscal quarter thereafter until the Latest Maturity Date (as defined in the Second Lien Credit Agreement).

### *Citibank Credit Agreement*

On December 22, 2014, the Company entered into a Credit Agreement with Citibank (the “Citibank Credit Agreement”, providing for \$2.4 million of term loans (the “Citibank Term Loans”) and a revolving line of credit (the “Citibank Revolving Loans”) in an amount not to exceed \$20.0 million. The Citibank Term Loans bore interest at a floating rate based on LIBOR plus an applicable interest margin per annum and mature on December 22, 2017. A total of \$0.2 million of the principal amount of the Citibank Term Loans plus any accrued and unpaid interest is to be repaid at the end of each quarter. The outstanding balance of the Citibank Term Loans could have been prepaid in whole or in part at any time without penalty. As noted below, on July 27, 2016, the Company repaid all amounts outstanding under the Citibank Credit Agreement and terminated the facilities under it.

Debt issuance costs incurred in connection with the Citibank Term Loans totaled \$0.3 million and were being amortized to interest expense over the respective term of the loans. As of June 30, 2016 and December 31, 2015, there were an aggregate principal amount of \$1.0 million and \$1.3 million, respectively, of the Citibank Term Loans outstanding and \$20.0 million available for future borrowings under the Citibank Revolving Loans.

As of June 30, 2016 and December 31, 2015, there was \$0.8 million and \$0.9 million in borrowings under a facility letter for a commercial mortgage loan with a bank which we assumed in connection with the IFES acquisition on October 18, 2013. See “Bank Debt” in Note 11 to our condensed consolidated financial statements contained herein.

On July 27, 2016, the Company repaid all amounts outstanding under the Citibank Credit Agreement. In exchange for the payment in full of obligations under the Citibank Credit Agreement, the Company terminated that agreement and obtained a full release of any further obligations thereunder.

### *Convertible Notes*

In February 2015, the Company issued \$82.5 million principal amount of 2.75% convertible senior notes due in 2035 (the “Convertible Notes”) in a private placement for net proceeds of \$80.7 million. The Convertible Notes were issued at par, pay interest semi-annually in arrears at an annual rate of 2.75% and mature on February 15, 2035, unless earlier repurchased, redeemed or converted. The Convertible Notes are convertible in certain circumstances and subject to certain conditions, based on an initial conversion rate of 53.9084 shares of common stock per \$1,000 principal amount of notes (which represents an initial conversion price of approximately \$18.55 per share), subject to adjustment. Holders of the Convertible Notes may convert their Convertible Notes at their option at any time prior to the close of business on the business day immediately preceding November 15, 2034, only if one or more of the following conditions has been satisfied: 1) during any calendar quarter beginning after March 31, 2015

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if the closing price of the Company's common stock equals or exceeds 130% of the respective conversion price per share during a defined period at the end of the previous quarter, 2) during the five consecutive business day period immediately following any five consecutive trading day period in which the trading price per \$1,000 principal amount of Convertible Notes for each trading day was less than 98% of the product of the last reported sale price of the Company's common stock and the conversion rate on each such trading day; 3) if specified corporate transactions occur, or 4) if the Company calls any or all of the Convertible Notes for redemption, at any time prior to the close of business on the second business day immediately preceding the redemption date. On or after November 15, 2034, until the close of business on the second scheduled trading day immediately preceding the maturity date, a holder may convert all or a portion of its Convertible Notes at any time, regardless of the foregoing circumstances.

On February 20, 2022, February 20, 2025 and February 20, 2030 and if the Company undergoes a "fundamental change" (as defined in the indenture governing the Convertible Notes (the "Indenture")), subject to certain conditions, a holder will have the option to require the Company to repurchase all or a portion of its Convertible Notes for cash at a repurchase price equal to 100% of the principal amount of the Convertible Notes to be repurchased, plus any accrued and unpaid interest, if any, to, but excluding, the relevant repurchase date. In addition, upon the occurrence of a "make-whole fundamental change" (as defined in the Indenture) or if the Company delivers a redemption notice prior to February 20, 2022, the Company will, in certain circumstances, increase the conversion rate for a holder that converts its Convertible Notes in connection with such make-whole fundamental change or redemption notice, as the case may be.

The Company may not redeem the Convertible Notes prior to February 20, 2019. The Company may, at its option, redeem all or part of the Convertible Notes at any time (i) on or after February 20, 2019 if the last reported sale price per share of the Company's common stock has been at least 130% of the conversion price then in effect for at least 20 trading days during any thirty consecutive trading day period ending on, and including, the trading day immediately preceding the date on which the Company provides written notice of redemption and (ii) on or after February 20, 2022 regardless of the sale price condition described in clause (i), in each case, at a redemption price equal to 100% of the principal amount of the Convertible Notes to be redeemed, plus accrued and unpaid interest to, but excluding, the redemption date. Upon conversion of any Convertible Note, the Company shall pay or deliver to the converting Holder, cash, shares of Common Stock or a combination of cash and shares of the Company's common stock, at the Company's election.

In accounting for the issuance of the Convertible Notes, the Company separated the notes into liability and equity components. The carrying amount of the liability component of \$69.5 million was calculated by measuring the fair value of similar liabilities that do not have an associated convertible feature. The carrying amount of the equity component was calculated to be \$13.0 million, and represents the conversion option which was determined by deducting the fair value of the liability component from the principal amount of the notes. This difference represents a debt discount that is amortized to interest expense over the term of the Convertible Notes. The equity component is not remeasured as long as it continues to meet the conditions for equity classification.

In accounting for the direct transaction costs (the "issuance costs") related to the Convertible Notes, the Company allocated the total amount of issuance costs incurred to the liability and equity components based on their relative values. The Company recorded issuance costs of \$1.8 million and \$0.3 million to the liability component and equity component, respectively. Issuance costs, including fees paid to the initial purchasers who acted as intermediaries in the placement of the Convertible Notes, attributable to the liability component are presented in the balance sheet as a direct deduction from the carrying amount of the debt liability and are amortized to interest expense over the term of the Convertible Notes, and the issuance costs attributable to the equity component were netted with the equity component and included within "Additional paid-in capital" in the condensed consolidated balance sheets. Interest expense related to the amortization expense of the issuance costs associated with the liability component was not material during the three months ended June 30, 2016.

As of June 30, 2016 and December 31, 2015, the outstanding Convertible Notes balance, net of debt issuance costs and discount associated with the equity component, was \$68.7 million and \$68.3 million, respectively.

Subject to applicable limitations in the instruments governing our outstanding indebtedness, we may from time to time repurchase our debt in the open market, through tender offers, through exchanges for debt or equity securities, in privately negotiated transactions or otherwise.

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Debt consisted of the following at June 30, 2016 and December 31, 2015 (in thousands):

	June 30, 2016	December 31, 2015
Bank Loans	\$ 1,025	\$ 1,374
Bank Debt	\$ 755	\$ 855
Convertible Senior Notes	\$ 68,679	\$ 68,335

The following is a schedule, by year, of future minimum principal payments required under notes payable and bank debt as of June 30, 2016 (in thousands):

Years Ending December 31,	Amount
2016 (remaining six months)	\$ 716
2017	356
2018	49
2019	45
2020	41
Thereafter	83,074
Total	\$ 84,281

In the future, we may utilize commercial financings, bonds, debentures, lines of credit and term loans with a syndicate of commercial banks or other bank syndicates and/or issue equity securities (publicly or privately) for general corporate purposes, including acquisitions and investing in our intangible assets, platform and technologies. We may also use our existing cash and cash equivalents to repurchase outstanding shares of our common stock and/or our Public SPAC Warrants. We expect that our existing cash and cash equivalents and our cash flows from operating activities will be sufficient to fund our operations for at least the next 24 months. However, we may need to raise additional funds through the issuance of equity, equity-related or debt securities or through additional credit facilities to fund our growing operations, invest in new business opportunities and make potential acquisitions.

#### *Sources and Uses of Cash - Six Months Ended June 30, 2016 vs. Six Months Ended June 30, 2015*

The following table presents a summary of our cash flow activity for the periods set forth below (in thousands):

	six months ended June 30,	
	2016	2015
Net cash provided by operating activities	\$ 666	\$ 4,544
Net cash used in investing activities	\$ (21,910)	\$ (4,979)
Net cash (used in) provided by financing activities	\$ (5,510)	\$ 85,014

#### *Cash Flows Provided by Operating Activities*

##### *Six Months Ended June 30, 2016*

Net cash provided by our operating activities of \$0.7 million primarily resulted our net loss during the period of \$40.6 million, which included non-cash charges of \$12.6 million largely comprised of changes in the fair value of our derivative financial instruments, depreciation and amortization, changes in our deferred income taxes, and stock-based compensation. The remainder of our operating activities resulted in an increase in cash from operations totaling \$28.6 million, primarily due to a changes in Accounts payable and accrued liabilities reflecting an increase of \$37.9 million principally due to accrued legal settlement obligations, and Accounts receivable of \$5.3 million. Offsetting these uses of cash in operating activities was a net cash outflows of \$14.6 million from decreases in Content and Inventory investments, Prepaid expenses and other assets, and Deferred revenues.

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*Six Months Ended June 30, 2015*

Net cash provided by operating activities of \$4.5 million primarily resulted from our net income during the period of \$9.6 million, which included non-cash charges of \$2.1 million largely comprised of changes in the fair value of our derivative financial instruments, depreciation and amortization, changes in our deferred income taxes, and stock-based compensation. The remainder of our sources of cash provided by operating activities of \$5.0 million was from changes in our working capital, including increases in accounts payable and accrued expenses and other liabilities and a decrease in deposits and other assets. Offsetting these cash inflows in operating activities was a cash outflow of \$8.0 million from increases in accounts receivable, prepaid expenses, inventory and content library, and a decrease in deferred revenue.

***Cash Flows Used in Investing Activities***

*Six Months Ended June 30, 2016*

Net cash used in investing activities during the six months ended June 30, 2016 of \$21.9 million was primarily due to \$17.6 million investments in property and equipment as well as a \$4.4 million loan to a related party.

*Six Months Ended June 30, 2015*

Net cash used in investing activities of \$5.0 million was due to investments in property and equipment to build out our internal infrastructure during the six months ended June 30, 2015.

***Cash Flows (Used in) Provided by Financing Activities***

*Six Months Ended June 30, 2016*

Net cash used in financing activities of \$5.5 million was primarily due to the repurchase of Company stock totaling \$5.2 million and cash used to repay debt of \$0.4 million, partially offset by cash received from the exercise of stock options.

*Six Months Ended June 30, 2015*

Net cash provided by financing activities of \$85.0 million was primarily due to cash received from the issuance of the convertible senior notes of \$81.3 million and net proceeds from the exercise of stock options and warrants of \$5.5 million, offset by debt issuance costs of \$0.8 million, other financing activities of \$0.5 million, and repayments on notes payable of \$0.4 million

**ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURE ABOUT MARKET RISKS**

Market risk is the sensitivity of income to changes in interest rates, foreign exchange rates, commodity prices, equity prices and other market driven rates or prices.

**Market Risk**

***Connectivity Segment***

Our Connectivity segment is generally not exposed to any material risk associated with exchange rates or equity prices. It does not hold or issue financial instruments for trading purposes. The Connectivity segment has indirect exposure to changes in commodity prices (e.g., the price of jet fuel) because a key aspect of the decision by its potential aviation customers to purchase the connectivity products is the effect such products may have on an aircraft's fuel burn.

***Content Segment***

Our Content segment has exposure primarily to two types of market risk: changes in foreign currency exchange rates and interest rates. We do not hold or issue financial instruments for trading purposes.

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The following sections provide information on exposure to foreign currency exchange rate risk and interest rate risks. Parts of our Content segment make use of sensitivity analysis that is inherently limited in estimating actual losses in fair value that can occur from changes in market conditions.

### Foreign Currency Exchange Rates

Our foreign operations are exposed to fluctuations in foreign currency exchange rates. Currency risks arise from the fact that both sales to customers and most of their film license costs or film rights purchases are largely effected in U.S. dollars while a significant portion of our Content segment's fixed and overhead costs are incurred in Euros, British pounds and Canadian dollars. We may engage in hedging transactions to counteract direct currency risks. However, there can be no assurance that all currency risks have been or will be hedged in full. Severe currency fluctuations could also cause the hedging transactions to fail if agreed thresholds are not met or exceeded. Therefore, substantial negative foreign currency effects may occur due to unforeseen exchange rate fluctuations and/or inaccurate assessments of market developments. Historically, we have not engaged in hedging transactions.

There are also intercompany receivables and liabilities such as loans that can generate significant foreign currency effects. Changes in the exchange rates of a number of foreign currencies against the Euro, especially the U.S. dollar and the Canadian dollar, could lead to the recognition of unrealized foreign exchange gains and losses in some cases, particularly as a result of intercompany transactions, including short term borrowings. We seek to minimize the impact of intercompany borrowings by reducing the magnitude and quantity of intercompany borrowings.

### Concentrations of Credit Risk

Our cash and cash equivalents are maintained at several financial institutions. Deposits held may exceed the amount of insurance provided on such deposits. Generally, our deposits may be redeemed upon demand and are maintained with a financial institution of reputable credit and, therefore, bear minimal credit risk. We monitor our positions with, and the credit quality of, the financial institutions that are counterparties to our financial instruments. We are exposed to credit loss in the event of nonperformance by the counterparties to the agreements. At June 30, 2016, we did not anticipate nonperformance by any of our counterparties. Historically, we have not experienced any losses related to these balances and believe that there is minimal risk of expected future losses. However, there can be no assurance that there will not be losses on these deposits.

As of June 30, 2016 and 2015, the following customer accounted for more than 10% of our consolidated revenue balance:

	Six Months Ended June 30,	
	2016	2015
Southwest Airlines	24%	25%

No other customer accounted for revenues greater than 10% for the two periods presented.

There were no accounts receivable balances from customers that represented more than 10% of total accounts receivable at June 30, 2016 and December 31, 2015.

## ITEM 4. CONTROLS AND PROCEDURES

### Evaluation of Disclosure Controls and Procedures

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in reports filed or submitted under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms and that such information is accumulated and communicated to management, including the Chief Executive Officer and Chief Financial Officer, to allow timely decisions regarding required disclosures.

As of the end of the period covered by this report on Form 10-Q, we carried out an evaluation, under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of our disclosure controls and procedures (as defined in Rule 13a-15(e) of the Exchange Act) pursuant to Rule 13a-15 of the Exchange Act. Based upon that evaluation, as a result of the material weakness identified in our 2015 Form 10-K, the Chief

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Executive Officer and Chief Financial Officer concluded that as of the end of the period covered by this report on Form 10-Q, the Company's disclosure controls and procedures were not effective.

**Changes in Internal Control over Financial Reporting**

We are in the process of implementing changes, as more fully described in our 2015 Form 10-K, to the Company's internal control over financial reporting to remediate the material weakness as described in our 2015 Form 10-K. Other than such changes, there have been no changes in our internal control over financial reporting during the three months ended June 30, 2016, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

## PART II — OTHER INFORMATION

### ITEM 1. LEGAL PROCEEDINGS

Certain legal proceedings in which we are involved are discussed in Note 7. Commitments and Contingencies, to the condensed consolidated financial statements included in this Quarterly Report on Form 10-Q.

#### ITEM 1A. RISK FACTORS

Except as set forth below, there have been no material changes to the risk factors previously disclosed in response to Part I, Item 1A, of our 2015 Form 10-K.

***We have become guarantors of significant indebtedness in connection with the EMC Acquisition, which could harm our operating flexibility and competitive position as well as adversely affect our financial condition and ability to fulfill our obligations, and expose us to interest rate risk.***

In connection with the EMC Acquisition, the Company and certain of its domestic subsidiaries became guarantors of approximately \$386 million of indebtedness of EMC under the Credit Facilities. Following the acquisition of our EMC business, we now have indebtedness that is substantially greater than, and has higher interest rates relative to, our indebtedness prior to the acquisition. Coupled with our outstanding convertible senior notes already outstanding prior to the EMC acquisition, our substantial indebtedness could have significant consequences for our business and financial condition. For example:

- If we fail to meet payment obligations or otherwise default under our debt, the lenders will have the right to accelerate the indebtedness and exercise other rights and remedies against us. We do not expect that we could repay all of our outstanding indebtedness if the repayment of such indebtedness was accelerated.
- We will be required to comply with financial covenants which require us to maintain maximum leverage ratios which decrease on a quarterly basis.
- We will be required to dedicate a greater percentage of our cash flows to payments on our debt, thereby reducing the availability of cash flows to fund capital expenditures pursue other acquisitions or investments in new technologies, make stock repurchases, and fund other general corporate requirements.
- Our ability to obtain additional financing to fund future working capital needs, capital expenditures, acquisitions, and other general corporate requirements could be limited. If we are unable to raise additional capital when required, it could affect our liquidity, business, financial condition, results of operations, and cash flows. In addition, our ability to borrow additional amounts under our revolving credit facility, which is a significant source of liquidity, is subject to the absence of defaults and our ability to make representations contained in our revolving credit facility. Failure to meet our borrowing conditions under our revolving credit facility could materially and adversely impact our liquidity.
- Our additional debt imposes operating and financial covenants and restrictions on us, and compliance with such covenants and restrictions may adversely affect our ability to adequately finance our operations or capital needs, pursue attractive business opportunities that may arise, redeem or repurchase capital stock, pay dividends, sell assets, and make capital expenditures.
- Our failure to comply with the covenants in our debt, including failure as a result of events beyond our control, could result in an event of default on our debt. Upon an event of default, the lenders of that debt could elect to cause all amounts outstanding with respect to that debt to become immediately due and payable and we would be unable to access our revolving credit facility. An event of default could materially and adversely affect our operating results, financial condition, and liquidity.
- We will experience increased vulnerability to, and limited flexibility in planning for, or reacting to, changes in or challenges relating to our business and industry, creating competitive disadvantages compared to other competitors with lower debt levels and borrowing costs.

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- We will experience increased vulnerability to general adverse economic conditions, including increases in interest rates if our borrowings bear interest at variable rates or if such indebtedness is refinanced at a time when interest rates are higher.

We cannot assure you that our cash flows, combined with additional borrowings under the Credit Facilities and any future credit agreements, will be available in an amount sufficient to enable us to repay our indebtedness, or to fund other liquidity needs.

In addition, we may incur substantial additional indebtedness in the future, which could cause the related risks to intensify. We may need to refinance all or a portion of our indebtedness on or before their respective maturities. We cannot assure you that we will be able to refinance any of our indebtedness on commercially reasonable terms or at all. The terms of any new debt may also impose additional and more stringent restrictions on our operations than are currently in place.

***Legacy claims against or ongoing litigation involving EMC could have an adverse effect on our business, financial condition and operating results.***

By operation of the EMC Acquisition, we assumed the responsibility for any claims against or litigation involving EMC, and such matters may lead to substantial on-going expenses and potential distractions to our management team. The EMC acquisition occurred on July 27, 2017 and we are now identifying and assessing the magnitude and merits of any such claims and litigation. Unfavorable resolutions of any such claims or litigation could have an adverse effect on our business, financial condition and operating results.

**ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS**

During the three months ended June 30, 2016, we had one outstanding stock repurchase program and the repurchase activity was as follows:

<b>Period</b>	<b>Total number of shares purchased</b>	<b>Average price paid per share (including broker commissions)</b>	<b>Total number of shares purchased as part of publicly announced plan</b>	<b>Maximum dollar value that may yet be purchased under the plan</b>
April 1 - April 30	614,087	\$8.48	614,087	\$44,792,542
May 1 - May 31	0		0	44,792,542
June 1 - June 30	0		0	44,792,542
	<u>614,087</u>	<u>\$8.48</u>	<u>614,087</u>	

There was no activity under our outstanding warrant repurchase program.

**ITEM 3. DEFAULTS UPON SENIOR SECURITIES**

Not applicable.

**ITEM 4. MINE SAFETY DISCLOSURES**

Not applicable.

**ITEM 5. OTHER INFORMATION**

Not applicable.

**ITEM 6. EXHIBITS**

See Exhibit Index attached hereto.

From time to time the Company may use its web site as a channel of distribution of material company information. Financial and other material information regarding the Company is routinely posted on and accessible at <http://>

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[investors.geemedia.com](http://investors.geemedia.com). In addition, you may automatically receive email alerts and other information about the Company by enrolling through the “Email Alerts” section at <http://investors.geemedia.com>.

The foregoing information regarding the Company web site and its content is for convenience only. The content of its web site is not deemed to be incorporated by reference into this report nor should it be deemed to have been filed with the Securities and Exchange Commission.

**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) 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 on this 9<sup>th</sup> day of August 2016.

GLOBAL EAGLE ENTERTAINMENT INC.

By: /s/ Michael Zemetra

Michael Zemetra

Chief Financial Officer and Treasurer

(principal financial officer, principal accounting officer and duly authorized officer)

**EXHIBIT INDEX**

Exhibit No.	Description
2.1	Interest Purchase Agreement, dated May 9, 2016, by and between the Company and EMC Acquisition Holdings, LLC (previously filed as Exhibit 2.1 to the Company's Current Report on Form 8-K (File No. 001-35176) filed on May 13, 2016 and incorporated herein by reference).
10.1	First Lien Credit Agreement, dated as of July 1, 2015, as amended by Amendment No. 1 to First Lien Credit Agreement, dated as of May 9, 2016, by and among EMC Acquisition, LLC, Emerging Markets Communications, LLC, Morgan Stanley Senior Funding, Inc., as the Administrative Agent, the guarantors party thereto and the lenders from time to time party thereto (previously filed as Exhibit 10.1 to the Company's Current Report on Form 8-K (File No. 001-35176) filed on August 2, 2016 and incorporated herein by reference).
10.2	Joinder to First Lien Credit Agreement, dated July 27, 2016, by and among Global Eagle Entertainment Inc., the grantors party thereto and Morgan Stanley Senior Funding, Inc., as the Administrative Agent (previously filed as Exhibit 10.2 to the Company's Current Report on Form 8-K (File No. 001-35176) filed on August 2, 2016 and incorporated herein by reference).
10.3	Joinder to First Lien Credit Agreement, dated July 27, 2016, by and among the joining parties thereto, the grantors party thereto and Morgan Stanley Senior Funding, Inc., as the Administrative Agent (previously filed as Exhibit 10.3 to the Company's Current Report on Form 8-K (File No. 001-35176) filed on August 2, 2016 and incorporated herein by reference).
10.4	First Lien Security Agreement, dated July 1, 2015, as amended by Amendment No. 1 to the First Lien Security Agreement, dated May 9, 2016, as further supplemented by that First Lien Security Agreement Supplement, dated July 27, 2016, made by Global Eagle Entertainment Inc., and each entity listed on Schedule 1 thereto, by and among the grantors party thereto and Morgan Stanley Senior Funding, Inc., as the Administrative Agent.
10.5	Second Lien Credit Agreement dated as of July 1, 2015, as amended by Amendment No. 1 to Second Lien Credit Agreement, dated as of May 9, 2016, by and among the Emerging Markets Communications, LLC, EMC Acquisition, LLC, and the other Guarantors party thereto, Morgan Stanley Senior Funding, Inc., as the Administrative Agent, the guarantors party thereto and the lenders from time to time party thereto.
10.6	Joinder to Second Lien Credit Agreement, dated July 27, 2016, by and among Global Eagle Entertainment Inc., the grantors party thereto and Morgan Stanley Senior Funding, Inc., as the Administrative Agent (previously filed as Exhibit 10.6 to the Company's Current Report on Form 8-K (File No. 001-35176) filed on August 2, 2016 and incorporated herein by reference).
10.7	Joinder to Second Lien Credit Agreement, dated July 27, 2016, by and among the joining parties thereto, the grantors party thereto and Morgan Stanley Senior Funding, Inc., as the Administrative Agent (previously filed as Exhibit 10.7 to the Company's Current Report on Form 8-K (File No. 001-35176) filed on August 2, 2016 and incorporated herein by reference).
10.8	Second Lien Security Agreement, dated July 1, 2015, as amended by Amendment No. 1 to the Second Lien Security Agreement, dated May 9, 2016, as further supplemented by the Second Lien Security Agreement Supplement, dated July 27, 2016 made by Global Eagle Entertainment Inc., and each entity listed on Schedule 1 thereto, by and among the grantors party thereto and Morgan Stanley Senior Funding, Inc., as the Administrative Agent.
10.9	Intercreditor Agreement, dated July 1, 2015, as amended by Amendment No. 1 to the Intercreditor Agreement, dated July 27, 2016, by and between Morgan Stanley Senior Funding, Inc., as First Lien Credit Agreement Administrative Agent and Morgan Stanley Senior Funding, Inc., as Second Lien Credit Agreement Administrative Agent (previously filed as Exhibit 10.9 to the Company's Current Report on Form 8-K (File No. 001-35176) filed on August 2, 2016 and incorporated herein by reference).
10.10	Incremental Amendment, dated as of June 29, 2016 by and among Emerging Markets Communications, LLC, EMC Acquisition, LLC, and the other Guarantors party thereto, the Toronto-Dominion Bank, and Morgan Stanley Senior Funding, Inc. (previously filed as Exhibit 10.10 to the Company's Current Report on Form 8-K (File No. 001-35176) filed on August 2, 2016 and incorporated herein by reference).
10.11	Registration Rights Agreement, dated as of July 27, 2016, by and among the Company, EMC Acquisition Holdings, LLC and the other holders party thereto (previously filed as Exhibit 10.11 to the Company's Current Report on Form 8-K (File No. 001-35176) filed on August 2, 2016 and incorporated herein by reference).
10.12	Employment Agreement, dated as of July 27, 2016, by and between the Company and Abel Avellan and Exhibit A thereto (Restrictive Covenant Agreement, dated as of July 27, 2016, by and between the Company and Abel Avellan) (previously filed as Exhibit 10.12 to the Company's Current Report on Form 8-K (File No. 001-35176) filed on August 2, 2016 and incorporated herein by reference).
10.13	Global Eagle Entertainment Inc. 2016 Inducement and Retention Stock Plan for EMC Employees (previously filed as Exhibit 10.13 to the Company's Current Report on Form 8-K (File No. 001-35176) filed on August 2,

- 2016 and incorporated herein by reference).
- 10.14 Nonqualified Stock Option Grant Notice and Award Agreement for Abel Avellan under the Global Eagle Entertainment Inc. 2016 Inducement and Retention Stock Plan for EMC Employees (previously filed as Exhibit 10.14 to the Company's Current Report on Form 8-K (File No. 001-35176) filed on August 2, 2016 and incorporated herein by reference).
- 10.15 Restricted Stock Unit Grant Notice and Award Agreement for Abel Avellan under the Global Eagle Entertainment Inc. 2016 Inducement and Retention Stock Plan for EMC Employees (previously filed as Exhibit 10.15 to the Company's Current Report on Form 8-K (File No. 001-35176) filed on August 2, 2016 and incorporated herein by reference).
- 10.16 Unrestricted Stock Grant Notice for Abel Avellan under the Global Eagle Entertainment Inc. Amended and Restated 2013 Equity Incentive Plan (previously filed as Exhibit 10.16 to the Company's Current Report on Form 8-K (File No. 001-35176) filed on August 2, 2016 and incorporated herein by reference).
- 10.17 Amended and Restated Employment Agreement, dated as of August 9, 2016, by and between the Company and Zant Chapelo.
- 10.18 Amended and Restated Employment Agreement, dated as of August 9, 2016, by and between the Company and Joshua Marks.
- 10.19 Amended and Restated Employment Agreement, dated as of August 9, 2016, by and between the Company and Kevin Trosian.
- 10.20 Non-Competition and Non-Solicitation Agreement dated May 9, 2016 between the Company and Abel Avellan
- 10.21 Global Eagle Entertainment Inc. Amended and Restated 2013 Equity Incentive Plan (incorporated by reference to Annex A to the Global Eagle Entertainment Inc. Definitive Proxy Statement on Schedule 14A (File No. 001-35176) filed on April 29, 2016).
- 31.1 Rule 13a-14(a)/15d-14(a) Certification of Chief Executive Officer
- 31.2 Rule 13a-14(a)/15d-14(a) Certification of Chief Financial Officer
- 32.1 Section 1350 Certification of Chief Executive Officer
- 32.2 Section 1350 Certification of Chief Financial Officer
- 101.1 The following financial information from our Quarterly Report on Form 10-Q for the quarter ended June 30, 2016 formatted in eXtensible Business Reporting Language (XBRL): (i) Condensed Consolidated Balance Sheets as of June 30, 2016 (Unaudited) and December 31, 2015; (ii) Unaudited Condensed Consolidated Statements of Operations for the three and six months ended June 30, 2016 and 2015; (iii) Unaudited Condensed Consolidated Statements of Comprehensive (Loss) Income for the three and six months ended June 30, 2016 and 2015; (iv) Unaudited Condensed Consolidated Statement of Stockholders' Equity for the six months ended June 30, 2016; (v) Unaudited Consolidated Statements of Cash Flows for the six months ended June 30, 2016 and 2015; and (vi) Notes to Unaudited Condensed Consolidated Financial Statements.

**FIRST LIEN SECURITY AGREEMENT**

dated as of

*July 1, 2015*

*among*

*THE GRANTORS IDENTIFIED HEREIN*

*and*

*MORGAN STANLEY SENIOR FUNDING, INC.,  
as Administrative Agent*

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FIRST LIEN SECURITY AGREEMENT dated as of July 1, 2015 (as amended, restated, amended and restated, supplemented and otherwise modified from time to time, the “**Agreement**”), by and among the Grantors (as defined below) and Morgan Stanley Senior Funding, Inc., as Administrative Agent for the Secured Parties (in such capacity and together with its successors and permitted assigns in such capacity, the “**Administrative Agent**”).

Reference is made to the First Lien Credit Agreement dated as of July 1, 2015 (as amended, restated, amended and restated, supplemented or otherwise modified in writing from time to time, the “**Credit Agreement**”), among EMC Acquisition, LLC, a Delaware limited liability company (“**Holdings**”), Emerging Markets Communications, LLC, a Delaware limited liability company (the “**Borrower**”), the other guarantors from time to time party thereto, Morgan Stanley Senior Funding, Inc., as Administrative Agent and Swing Line Lender, each lender from time to time party thereto (collectively, the “**Lenders**” and, individually, a “**Lender**”), and Morgan Stanley Bank, N.A., as L/C Issuer. The Lenders have agreed to extend credit to the Borrower subject to the terms and conditions set forth in the Credit Agreement. The obligations of the Lenders to extend such credit are conditioned upon, among other things, the execution and delivery of this Agreement. Holdings and the Subsidiary Parties (as defined below) are affiliates of the Borrower, will derive substantial benefits from the extension of credit by the Lenders pursuant to the Credit Agreement, and are willing to execute and deliver this Agreement in order to induce the Lenders to extend such credit. It is acknowledged and agreed by all parties hereto that this Agreement is executed and effective on and from the Closing Date. Accordingly, the parties hereto agree as follows:

## ARTICLE 1 DEFINITIONS

### Section 1.01. Credit Agreement.

(a) Capitalized terms used in this Agreement and not otherwise defined herein have the meanings specified in the Credit Agreement. All terms defined in the UCC (as defined herein) and not defined in this Agreement have the meanings specified therein; the term “instrument” shall have the meaning specified in Article 9 of the UCC.

(b) The rules of construction specified in Article 1 (including Sections 1.01 through 1.11) of the Credit Agreement also apply to this Agreement.

Section 1.02. *Other Defined Terms.* As used in this Agreement, the following terms have the meanings specified below:

“**Account Debtor**” means any Person who is or who may become obligated to any Grantor under, with respect to or on account of an Account.

“**Accounts**” has the meaning specified in Article 9 of the UCC.

“**Administrative Agent**” has the meaning assigned to such term in the preliminary statements to this Agreement.

“**Article 9 Collateral**” has the meaning assigned to such term in Section 3.01(a).

“**Borrower**” has the meaning assigned to such term in the preliminary statements to this Agreement.

“**Collateral**” means the Article 9 Collateral and the Pledged Collateral.

“**Commercial Tort Claims**” has the meaning specified in Article 9 of the UCC.

“**Copyright License**” means any written agreement, now or hereafter in effect, granting any use right to any third party under any Copyright now or hereafter owned by any Grantor or that such Grantor otherwise has the right to license, or granting any use right to any Grantor under any Copyright now or hereafter owned by any third party, and all rights of such Grantor under any such agreement.

“**Copyrights**” means all of the following: (a) all copyright rights in any work subject to the copyright Laws of the United States, whether as author, assignee, transferee or otherwise, and (b) all registrations and applications for registration of any such copyright in the United States, including registrations, recordings, supplemental registrations and pending applications for registration in the USCO.

“**Credit Agreement**” has the meaning assigned to such term in the preliminary statements to this Agreement.

“**General Intangibles**” has the meaning specified in Article 9 of the UCC.

“**Grantor**” means the Borrower, each Guarantor that is a party hereto, and each Guarantor that is a Domestic Subsidiary that becomes a party to this Agreement after the Closing Date.

“**Intellectual Property**” means all intellectual property of every kind and nature throughout the world, including: (a) Patents, Copyrights, Trademarks, trade secrets, intellectual property rights in software and databases and related documentation and all additions and improvements to the foregoing and (b) renewals, extensions, supplements and continuations thereof.

“**Intellectual Property Security Agreements**” means the short-form Patent Security Agreement, short-form Trademark Security Agreement, and short-form Copyright Security Agreement, each substantially in the form attached hereto as Exhibits III, IV and V, respectively.

“**Lenders**” has the meaning assigned to such term in the preliminary statements to this Agreement.

“**License**” means any Patent License, Trademark License, Copyright License or other Intellectual Property license or sublicense agreement to which any Grantor is a party; *provided*, that Licenses shall not include any Excluded Assets.

“**Patent License**” means any written agreement, now or hereafter in effect, granting to any third party any right to make, use or sell any invention on which a Patent, now or hereafter owned by any Grantor or that any Grantor otherwise has the right to license, exists, or granting to any Grantor any right to make, use or sell any invention on which a Patent, now or hereafter owned by any third party, exists, and all rights of any Grantor under any such agreement.

“**Patents**” means all of the following: (a) all letters patent of the United States, all registrations and recordings thereof, and all applications for letters patent of the United States, including registrations, recordings and pending applications in the USPTO; and (b) all reissues,

continuations, divisionals, continuations-in-part, improvements or extensions thereof, including the right to make, use and/or sell the inventions disclosed or claimed therein.

“**Perfection Certificate**” means a certificate substantially in the form of Exhibit II, completed and supplemented with the schedules and attachments contemplated thereby, and duly executed by a Responsible Officer of each Grantor.

“**Pledged Collateral**” has the meaning assigned to such term in Section 2.01.

“**Pledged Debt**” has the meaning assigned to such term in Section 2.01.

“**Pledged Equity**” has the meaning assigned to such term in Section 2.01.

“**Pledged Securities**” means the Pledged Equity and Pledged Debt.

“**Proceeds**” shall mean all “proceeds” as such term is defined in the UCC.

“**Registered Intellectual Property Collateral**” means the Collateral consisting of United States issued Patents, United States registered Trademarks and United States registered Copyrights and, in each case, applications therefor.

“**Security Agreement Supplement**” means an instrument substantially in the form of Exhibit I hereto.

“**Security Interest**” has the meaning assigned to such term in Section 3.01(a).

“**Subsidiary Parties**” means (a) the Restricted Subsidiaries identified on Schedule I and (b) each other Restricted Subsidiary that becomes a party to this Agreement as a Subsidiary Party after the Closing Date.

“**Trademark License**” means any written agreement, now or hereafter in effect, granting to any third party any right to use any Trademark now or hereafter owned by any Grantor or that any Grantor otherwise has the right to license, or granting to any Grantor any right to use any Trademark now or hereafter owned by any third party, and all rights of any Grantor under any such agreement.

“**Trademarks**” means all of the following: (a) all trademarks, service marks, trade names, corporate names, fictitious business names, and other source or business identifiers, now existing or hereafter adopted or acquired and whether registered or unregistered, all registrations and recordings thereof, and all registration and recording applications filed in connection therewith, including registrations and registration applications in the USPTO or any similar offices in any State of the United States or any political subdivision thereof and all extensions or renewals thereof; and (b) all goodwill connected with the use of and symbolized thereby; *provided*, that “**Trademarks**” shall not include any Excluded Assets.

“**UCC**” means the Uniform Commercial Code as from time to time in effect in the State of New York; *provided* that, if perfection or the effect of perfection or non-perfection or the priority of the 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.

“USCO” means the United States Copyright Office.

“USPTO” means the United States Patent and Trademark Office.

## ARTICLE 2 PLEDGE OF SECURITIES

Section 2.01. *Pledge.* As security for the payment or performance in full of the Secured Obligations, including the Guaranteed Obligations, each of the Grantors hereby pledges to the Administrative Agent, its successors and permitted assigns, for the benefit of the Secured Parties, and hereby grants to the Administrative Agent, its successors and permitted assigns, for the benefit of the Secured Parties, a security interest in all of such Grantor’s right, title and interest in, to and under any and all of the following assets and properties now owned or at any time hereafter acquired by such Grantor or in which such Grantor now has or at any time in the future may acquire right, title or interest:

(i) all Equity Interests held by it, including without limitation, the Equity Interests which are listed on Schedule II, and any other Equity Interests obtained in the future by such Grantor and the certificates (if any) representing all such Equity Interests (the “**Pledged Equity**”); *provided* that the Pledged Equity shall not include (A) Excluded Assets or (B) for the avoidance of doubt, Equity Interests in excess of 65% of the issued and outstanding Equity Interests of (1) any Restricted Subsidiary that is a CFC Holding Company and (2) any Restricted Subsidiary that is a wholly owned Foreign Subsidiary that is directly owned by the Borrower or by any Subsidiary Guarantor;

(ii) (A) all debt securities owned by it, including without limitation, the debt securities which are listed opposite the name of such Grantor on Schedule II, (B) any debt securities obtained in the future by such Grantor and (C) the promissory notes and any other instruments evidencing such debt securities (the “**Pledged Debt**”);

(iii) all other property that may be delivered to and held by the Administrative Agent pursuant to the terms of this Agreement;

(iv) subject to Section 2.06, all payments of principal or interest, dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of, in exchange for or upon the conversion of, and all other Proceeds received in respect of, the securities referred to in clauses (i) and (ii) above;

(v) subject to Section 2.06, all rights and privileges of such Grantor with respect to the securities and other property referred to in clauses (i), (ii), (iii) and (iv) above; and

(vi) all Proceeds of any of the foregoing

(the items referred to in clauses (i) through (vi) above being collectively referred to as the “**Pledged Collateral**”). For the avoidance of doubt, neither “Pledged Collateral” nor any defined term used therein shall include any Excluded Assets.

TO HAVE AND TO HOLD the Pledged Collateral, together with all right, title, interest, powers, privileges and preferences pertaining or incidental thereto, unto the Administrative Agent, its successors and permitted assigns, for the benefit of the Secured Parties, forever, subject, however, to the terms, covenants and conditions hereinafter set forth.

Section 2.02. Delivery of the Pledged Securities.

(a) As of the Closing Date, each Grantor has delivered or caused to be delivered to the Administrative Agent, for the benefit of the Secured Parties, any and all Pledged Equity evidenced by a certificate and, to the extent required to be delivered pursuant to Section 2.02(b) below, any and all Pledged Debt; *provided* that no Grantor shall be required to take any action to perfect the interest of the Secured Parties in the Pledged Equity of Foreign Subsidiaries that are Immaterial Subsidiaries, including but not limited to delivering any pledges under the laws of any non-U.S. jurisdiction and delivering or causing to be delivered any certificates evidencing such Pledged Equity. Each Grantor agrees promptly (but in any event within 10 Business Days after receipt by such Grantor or such longer period as the Administrative Agent may agree in its reasonable discretion) to deliver or cause to be delivered to the Administrative Agent, for the benefit of the Secured Parties, any and all Pledged Equity acquired after the Closing Date that is evidenced by a certificate and, to the extent required to be delivered pursuant to Section 2.02(b), any and all Pledged Debt acquired after the Closing Date.

(b) Each Grantor will cause any Indebtedness for borrowed money having an aggregate principal amount in excess of \$5,000,000 owed to such Grantor by any Person that is evidenced by a duly executed promissory note to be pledged and delivered to the Administrative Agent, for the benefit of the Secured Parties, pursuant to the terms hereof.

(c) Upon delivery to the Administrative Agent, any Pledged Securities shall be accompanied by stock or security powers, endorsements or allonges duly executed in blank or other instruments of transfer reasonably satisfactory to the Administrative Agent (other than instruments or documents requiring actions in any non-U.S. jurisdiction related to Equity Interests of Foreign Subsidiaries). Each delivery of Pledged Securities shall be accompanied by a schedule describing the Pledged Securities, which schedule shall be deemed to supplement Schedule II and made a part hereof; *provided* that failure to supplement Schedule II shall not affect the validity of such pledge of such Pledged Securities. Each schedule so delivered shall supplement any prior schedules so delivered.

(d) No actions in any non-U.S. jurisdiction or required by the Laws of any non-U.S. jurisdiction shall be required in order to create any security interests in assets located, titled, registered or filed outside of the U.S. or to perfect such security interests (it being understood that there shall be no security agreements or pledge agreements governed under the Laws of any non-U.S. jurisdiction).

Section 2.03. Representations, Warranties and Covenants. Each Grantor represents, warrants and covenants to and with the Administrative Agent, for the benefit of the Secured Parties, that:

(a) As of the date hereof, Schedule II includes all Equity Interests, debt securities and promissory notes required to be pledged by such Grantor hereunder in order to satisfy the Collateral and Guarantee Requirement;

(b) the Pledged Equity issued by the Borrower or a wholly-owned Restricted Subsidiary have been duly and validly authorized and issued by the issuers thereof and are fully paid and non-assessable (if applicable);

(c) except for the security interests granted hereunder, such Grantor (i) is, subject to any transfers made in compliance with the Credit Agreement, the direct owner, beneficially and of record, of the Pledged Securities indicated on Schedule II to be owned by such Grantor, (ii) holds the same free and clear of all Liens, other than (A) Liens created by the Collateral Documents and (B) Liens permitted pursuant to Section 7.01 of the Credit Agreement, and (iii) if reasonably requested by the Administrative Agent, will defend its title or interest thereto or therein against any and all Liens (other than the Liens permitted pursuant to this Section 2.03(c)), however arising, of all Persons whomsoever;

(d) as of the Closing Date, except for restrictions and limitations (i) imposed or permitted by the Loan Documents, (subject to the terms of the Closing Date Intercreditor Agreement) the Second Lien Loan Documents, Contractual Obligations permitted pursuant to Section 7.09 of the Credit Agreement, or securities laws generally, (ii) imposed by the Communications Act with respect to any proposed transfer of control or assignment of a FCC Authorization, and (iii) in the case of Pledged Equity of Persons that are not Subsidiaries, transfer restrictions that exist at the time of acquisition of Equity Interests in such Persons (but not entered into in contemplation thereof), the Pledged Collateral is freely transferable and assignable, and none of the Pledged Collateral is subject to any option, right of first refusal, shareholders agreement, charter or bylaw provisions or contractual restriction of any nature that could reasonably be expected to prohibit, impair, delay or otherwise affect, in each case, in any manner material and adverse to the Secured Parties the pledge of such Pledged Collateral hereunder, the sale or disposition thereof pursuant hereto or the exercise by the Administrative Agent of rights and remedies hereunder;

(e) the execution and performance by the Grantors of this Agreement are within each Grantor's corporate or limited liability company powers and have been duly authorized by all necessary corporate action or other organizational action;

(f) no approval, consent, exemption, authorization or other action, filing, notice or registration is necessary to ensure the validity of the pledge effected hereby, except for (i) approvals, consents, exemptions, authorizations, or other actions by, or notices to, or filings and registrations necessary to perfect the Liens on the Collateral granted by the Loan Parties in favor of the Secured Parties (or release existing Liens) under applicable U.S. law, (ii) the approvals, consents, exemptions, authorizations, actions, notices and filings which have been duly obtained, taken, given or made and are in full force and effect (except to the extent not required to be obtained, taken, given or made or in full force and effect pursuant to the Collateral and Guarantee Requirement) and (iii) those approvals, consents, exemptions, authorizations or other actions, notices or filings, the failure of which to obtain or make could not reasonably be expected to have a Material Adverse Effect;

(g) by virtue of the execution and delivery by each Grantor of this Agreement, and delivery of the Pledged Equity to and continued possession by the Administrative Agent in the State of New York, the Administrative Agent (for the benefit of the Secured Parties) has a legal, valid and perfected first-priority lien upon and security interest in such Pledged Equity as security for the payment and performance of the Secured Obligations to the extent such

perfection is governed by the UCC, subject only to Liens permitted by Section 7.01 of the Credit Agreement and the Enforcement Qualifications;

(h) by virtue of (i) the filing of UCC financing statements or other appropriate filings, recordings or registrations prepared by the Administrative Agent based upon the information provided to the Administrative Agent in the Perfection Certificate for filing in the applicable filing office, in each case, as required by the Collateral and Guarantee Requirement and Section 6.11 of the Credit Agreement and (ii) delivery of the Pledged Debt to and continued possession of the Pledged Debt by the Administrative Agent in the State of New York, the Administrative Agent (for the benefit of the Secured Parties) has a legal, valid and perfected security interest in respect of all Collateral in which the Security Interest in the Pledged Debt may be perfected by filing or recording in the United States (or any political subdivision thereof) and its territories and possessions pursuant to the UCC or by possession of the Pledged Debt (subject, in each case, to the Enforcement Qualifications); and

(i) the pledge effected hereby is effective to vest in the Administrative Agent, for the benefit of the Secured Parties, the rights set forth herein of the Administrative Agent in the Pledged Collateral.

Subject to the terms of this Agreement, each Grantor hereby agrees that upon the occurrence and during the continuance of an Event of Default, it will comply with instructions of the Administrative Agent with respect to the Equity Interests in such Grantor that constitute Pledged Equity hereunder without further consent by the applicable owner or holder of such Equity Interests.

Notwithstanding anything to the contrary in this Agreement, to the extent any provision of this Agreement or the Credit Agreement excludes any assets from the scope of the Pledged Collateral, or from any requirement to take any action to perfect any security interest in favor of the Administrative Agent in the Pledged Collateral, the representations, warranties and covenants made by any relevant Grantor in this Agreement with respect to the creation, perfection or priority (as applicable) of the security interest granted in favor of the Administrative Agent (including, without limitation, this Section 2.03) shall be deemed not to apply to such excluded assets.

Section 2.04. *Certification of Limited Liability Company and Limited Partnership Interests.* No interest in any limited liability company or limited partnership controlled by any Grantor that constitutes Pledged Equity is, or shall be, represented by a certificate unless the limited liability company agreement or partnership agreement expressly provides that such interests shall be a “security” within the meaning of Article 8 of the UCC; *provided* that, regardless of whether such Pledged Equity is a “security” within the meaning of Article 8 of the UCC, any and all certificates evidencing such Pledged Equity shall be delivered to the Administrative Agent in accordance with Section 2.02. If any limited liability company or limited partnership controlled by any Grantor, the interest of which is pledged under Section 2.01, includes in its limited liability company agreement or partnership agreement that any interests in such limited liability company or such limited partnership be a “security” as defined under Article 8 of the UCC, the applicable Grantor shall promptly certificate any Equity Interests in any such limited liability company or such limited partnership. To the extent an interest in any limited liability company or limited partnership controlled by any Grantor and pledged under Section 2.01 is certificated or becomes certificated, (i) each such certificate shall be delivered to the Administrative Agent, pursuant to Section 2.02(a) and (ii) such Grantor shall fulfill all other requirements under Section 2.02 applicable in respect thereof. To the extent an interest in any

limited liability company or limited partnership controlled by any Grantor and pledged under Section 2.01 is an “uncertificated security” as defined under Article 8 of the UCC, each Grantor shall not permit any issuer of such uncertificated securities (other than (x) an uncertificated security credited on the books of a Clearing Corporation or Securities Intermediary and (y) an uncertificated security issued by a Person that is not a Restricted Subsidiary of the Borrower) to (i) enter into any agreement with any Person, other than the Administrative Agent, whereby such issuer effectively delivers “control” of such uncertificated securities under the UCC to such Person, or (ii) allow such uncertificated securities to become “certificated securities”, as defined under Article 8 of the UCC, unless such Grantor complies with the procedures set forth in this Section 2.04.

Section 2.05. *Registration in Nominee Name; Denominations.* If an Event of Default shall have occurred and be continuing and the Administrative Agent shall have given the Borrower two (2) Business Days prior written notice of its intent to exercise such rights, (a) the Administrative Agent, on behalf of the Secured Parties, shall have the right to hold the Pledged Equity in its own name as pledgee, the name of its nominee (as pledgee or as subagent) or the name of the applicable Grantor, endorsed or assigned in blank or in favor of the Administrative Agent and each Grantor will promptly give to the Administrative Agent copies of any written notices or other written communications received by it with respect to Pledged Equity registered in the name of such Grantor and (b) to the extent permitted by the documentation governing such Pledged Equity, the Administrative Agent shall have the right to exchange the certificates representing Pledged Equity for certificates of smaller or larger denominations for any purpose consistent with this Agreement.

Section 2.06. Voting Rights; Dividends and Interest.

(a) Unless and until an Event of Default shall have occurred and be continuing and the Administrative Agent shall have provided two (2) Business Days prior written notice to the Borrower that the rights of the Grantor under this Section 2.06 are being suspended:

(i) Each Grantor shall be entitled to exercise any and all voting and/or other consensual rights and powers inuring to an owner of Pledged Securities or any part thereof and each Grantor agrees that it shall not exercise such rights in violation of this Agreement, the Credit Agreement and the other Loan Documents.

(ii) The Administrative Agent shall promptly (after reasonable advance notice) execute and deliver to each Grantor, or cause to be executed and delivered to such Grantor, all such proxies, powers of attorney and other instruments as such Grantor may reasonably request for the purpose of enabling such Grantor to exercise the voting and/or consensual rights and powers it is entitled to exercise pursuant to subparagraph (i) above.

(iii) Each Grantor shall be entitled to receive and retain any and all dividends, interest, principal and other distributions paid on or distributed in respect of the Pledged Securities to the extent and only to the extent that such dividends, interest, principal and other distributions are permitted by, and otherwise paid or distributed in accordance with, the terms and conditions of the Credit Agreement, the other Loan Documents and applicable Laws; *provided* that any noncash dividends, interest, principal or other distributions that would constitute Pledged Equity or Pledged Debt, whether resulting from a subdivision, combination or reclassification of the outstanding Equity Interests of the issuer of any

Pledged Securities or received in exchange for Pledged Securities or any part thereof, or in redemption thereof, or as a result of any merger, consolidation, acquisition or other exchange of assets to which such issuer may be a party or otherwise, shall be and become part of the Pledged Collateral, and, if received by any Grantor, shall not be commingled by such Grantor with any of its other funds or property but shall be held separate and apart therefrom, for the benefit of the Administrative Agent and the Secured Parties and shall be promptly (and in any event within 10 Business Days or such longer period as the Administrative Agent may agree in its reasonable discretion) delivered to the Administrative Agent in the same form as so received (with any endorsement reasonably requested by the Administrative Agent). So long as no Event of Default has occurred and is continuing, the Administrative Agent shall promptly deliver to each Grantor any Pledged Securities in its possession if requested to be delivered to the issuer thereof in connection with any exchange or redemption of such Pledged Securities permitted by the Credit Agreement in accordance with this Section 2.06(a)(iii).

(b) Upon the occurrence and during the continuance of an Event of Default, after the Administrative Agent shall have notified the Borrower of the suspension of the Grantors' rights under paragraph (a)(iii) of this Section 2.06, then all rights of any Grantor to dividends, interest, principal or other distributions that such Grantor is authorized to receive pursuant to paragraph (a)(iii) of this Section 2.06 shall cease, and all such rights shall thereupon become vested in the Administrative Agent, which shall have the sole and exclusive right and authority to receive and retain such dividends, interest, principal or other distributions. All dividends, interest, principal or other distributions received by any Grantor contrary to the provisions of this Section 2.06 shall not be commingled by such Grantor with any of its other funds or property but shall be held separate and apart therefrom, for the benefit of the Administrative Agent and the Secured Parties and shall be promptly (and in any event within 10 Business Days or such longer period as the Administrative Agent may agree in its reasonable discretion) delivered to the Administrative Agent upon demand in the same form as so received (with any endorsement reasonably requested by the Administrative Agent). Any and all money and other property paid over to or received by the Administrative Agent pursuant to the provisions of this paragraph (b) shall be retained by the Administrative Agent in an account to be established by the Administrative Agent upon receipt of such money or other property and shall be applied in accordance with the provisions of Section 4.02. After all Events of Default have been cured or waived, the Administrative Agent shall promptly repay to each Grantor (without interest) all dividends, interest, principal or other distributions that such Grantor would otherwise be permitted to retain pursuant to the terms of paragraph (a)(ii) of this Section 2.06 and that remain in such account.

(c) Upon the occurrence and during the continuance of an Event of Default, after the Administrative Agent shall have provided the Borrower with notice of the suspension of its rights under paragraph (a)(i) of this Section 2.06, then all rights of any Grantor to exercise the voting and consensual rights and powers it is entitled to exercise pursuant to paragraph (a)(i) of this Section 2.06, and the obligations of the Administrative Agent under paragraph (a)(ii) of this Section 2.06, shall cease, and all such rights shall thereupon become vested in the Administrative Agent, which shall have the sole and exclusive right and authority to exercise such voting and consensual rights and powers; *provided* that, unless otherwise directed by the Required Lenders, the Administrative Agent shall have the right from time to time following and during the continuance of an Event of Default to permit the Grantors to exercise such rights. After all Events of Default have been cured or waived, each Grantor shall have the exclusive right to exercise the voting and/or consensual rights and powers that the Borrower would otherwise be entitled to exercise pursuant to the terms of

paragraph (a)(i) above, and the obligations of the Administrative Agent under paragraph (a)(ii) of this Section 2.06 shall be reinstated.

(d) In order to permit the Administrative Agent to exercise the voting and other consensual rights which it may be entitled to exercise pursuant hereto and to receive all dividends and other distributions which it may be entitled to receive hereunder, each Grantor shall promptly execute and deliver (or cause to be executed and delivered) to the Administrative Agent all proxies, dividend payment orders and other instruments as the Administrative Agent may from time to time reasonably request, but in any event solely after an Event of Default has occurred and is continuing, and after having provided required notice to Borrower of its desire to exercise its rights hereunder, and each Grantor acknowledges that the Administrative Agent may utilize the power of attorney set forth in Section 6.13 herein in accordance with the terms thereof.

(e) Any notice given by the Administrative Agent to the Borrower under Section 2.05 or this Section 2.06 (i) shall be given in writing, (ii) may be given with respect to one or more Grantors at the same or different times and (iii) may suspend the rights of the Grantors under paragraph (a)(i) or paragraph (a)(iii) of this Section 2.06 in part without suspending all such rights (as specified by the Administrative Agent in its sole and absolute discretion) and without waiving or otherwise affecting the Administrative Agent's rights to give additional notices from time to time suspending other rights so long as an Event of Default has occurred and is continuing.

(f) Notwithstanding anything to the contrary herein or in any other Loan Document, the Administrative Agent shall not exercise voting rights under this Section 2.06 with respect to any Pledged Securities unless and until it has obtained FCC consent to any transfers of control or assignments that would result from the assumption of voting rights for such Pledged Securities (if applicable).

### ARTICLE 3 SECURITY INTERESTS IN PERSONAL PROPERTY

#### Section 3.01. Security Interest.

(a) As security for the payment or performance in full of the Secured Obligations, including the Guaranteed Obligations, each Grantor hereby pledges to the Administrative Agent, its successors and permitted assigns, for the benefit of the Secured Parties, and hereby grants to the Administrative Agent, its successors and permitted assigns, for the benefit of the Secured Parties, a security interest (the "**Security Interest**") in all right, title or interest in or to any and all of the following assets and properties now owned or at any time hereafter acquired by such Grantor or in which such Grantor now has or at any time in the future may acquire any right, title or interest (collectively, the "**Article 9 Collateral**"):

- (i) all Accounts;
- (ii) all Chattel Paper;
- (iii) all Documents;
- (iv) all Equipment and Fixtures;
- (v) all General Intangibles;

- (vi) all Goods;
- (vii) all Instruments;
- (viii) all Inventory;
- (ix) all Investment Property;
- (x) all Letter-of-Credit Rights to the extent constituting a Supporting Obligation for other Article 9 Collateral as to which perfection of security interests in such Article 9 Collateral is accomplished solely by the filing of a UCC financing statement;
- (xi) all books and records pertaining to the Article 9 Collateral;
- (xii) all Intellectual Property and Licenses;
- (xiii) all Commercial Tort Claims listed on Schedule III and on any supplement thereto received by the Administrative Agent pursuant to Section 3.03(g); and
- (xiv) to the extent not otherwise included, all Proceeds, products, accessions, rents and profits of any and all of the foregoing and all Supporting Obligations, collateral security and guarantees given by any Person with respect to any of the foregoing;

*provided* that, notwithstanding anything to the contrary in this Agreement, (i) this Agreement shall not constitute a grant of a security interest in any Excluded Assets and (ii) the Article 9 Collateral (nor any defined term therein) shall not include any Excluded Assets.

(b) Subject to Section 3.01(e), each Grantor hereby irrevocably authorizes the Administrative Agent for the benefit of the Secured Parties at any time and from time to time to file in any relevant jurisdiction any financing statements with respect to the Collateral or any part thereof and amendments thereto and continuations thereof that (i) indicate the Collateral as “all assets of the debtor, whether now existing or hereafter arising” or words of similar effect as being of an equal or lesser scope or with greater detail and (ii) contain the information required by Article 9 of the UCC or the analogous legislation of each applicable jurisdiction for the filing of any financing statement or amendment, including whether such Grantor is an organization, the type of organization and, if required, any organizational identification number issued to such Grantor. Each Grantor agrees to provide such information to the Administrative Agent promptly upon any reasonable request.

(c) The Security Interest is granted as security only and shall not subject the Administrative Agent or any other Secured Party to, or in any way alter or modify, any obligation or liability of any Grantor with respect to or arising out of the Collateral; *provided* that the foregoing will not limit or otherwise affect the obligations and liabilities of the Grantors to the extent set forth herein and in the other Loan Documents.

(d) Upon three (3) Business Days prior written notice (or, with respect to filings as of the Closing Date, without any such notice) to the applicable Grantor, the Administrative Agent is authorized to file with the USPTO or the USCO (or any successor office) additional documents (including any Intellectual Property Security Agreements and/or supplements thereto) as may be necessary for the purpose of perfecting, confirming, continuing, enforcing or protecting the Security

Interest in the Registered Intellectual Property Collateral of each Grantor in which a security interest has been granted by each Grantor, and naming any Grantor as debtor and the Administrative Agent as secured party.

(e) Notwithstanding anything to the contrary in the Loan Documents, none of the Grantors shall be required, nor is the Administrative Agent authorized, (i) to perfect the Security Interests granted by this Agreement (including Security Interests in Investment Property and Fixtures) by any means other than by (A) filings pursuant to the UCC in the office of the secretary of state (or similar central filing office) of the relevant State(s), and filings in the applicable real estate records with respect to any fixtures relating to Mortgaged Property to the extent required by the Collateral and Guarantee Requirement, (B) filings in United States government offices with respect to Intellectual Property of Grantor as expressly required elsewhere herein, (C) delivery to the Administrative Agent to be held in its possession of all Collateral consisting of Instruments or certificated Pledged Collateral as expressly required elsewhere herein or (D) other methods expressly provided herein, (ii) to enter into any deposit account control agreement, securities account control agreement or any other control agreement with respect to any deposit account, securities account or any other Collateral that requires perfection by "control," (iii) to take any action (other than the actions listed in clauses (i)(A) and (C) above) with respect to any assets located outside of the United States or any other assets, including any Intellectual Property registered in any non-U.S. jurisdiction (and no security agreements or pledge agreements governed under the laws of any non-U.S. jurisdiction shall be required), (iv) to perfect in any assets subject to a certificate of title statute or (v) to deliver any Equity Interests except as expressly provided in Section 2.02.

Section 3.02. *Representations and Warranties.* Each Grantor, jointly and severally, represents and warrants to the Administrative Agent and the Secured Parties that:

(a) Each Grantor has good and valid rights in and title (except as otherwise permitted by the Loan Documents) to (or, with respect to Licenses, a license or other permission to use) the Article 9 Collateral with respect to which it has purported to grant a Security Interest hereunder and has full organizational power and authority to grant to the Administrative Agent the Security Interest in such Article 9 Collateral pursuant hereto and to execute, deliver and perform its obligations in accordance with the terms of this Agreement, without the consent or approval of any Governmental Authority other than (i) any consent or approval that has been obtained or (ii) any consent or approval for which the lack thereof could not reasonably be expected to cause a Material Adverse Effect.

(b) The Perfection Certificate has been duly prepared, completed and executed and the information set forth therein is correct and complete in all material respects (except the information therein with respect to the exact legal name of each Grantor shall be correct and complete in all respects) as of the Closing Date. The UCC financing statements or other appropriate filings, recordings or registrations prepared by the Administrative Agent based upon the information provided to the Administrative Agent in the Perfection Certificate for filing in the applicable filing office (or specified by notice from the Borrower to the Administrative Agent after the Closing Date in the case of filings, recordings or registrations (other than filings required to be made in the USPTO and the USCO in order to perfect the Security Interest in Article 9 Collateral consisting of Registered Intellectual Property Collateral), in each case, as required by the Collateral and Guarantee Requirement and Section 6.11 of the Credit Agreement), are all the filings, recordings and registrations that are necessary to establish a legal, valid and perfected security interest in favor of the Administrative Agent (for the benefit of the Secured Parties) in respect of all Collateral in which the Security Interest may be perfected by filing, recording or registration in the United States (or

any political subdivision thereof) and its territories and possessions pursuant to the UCC; *provided, however*, that additional filings may be necessary in the USPTO and USCO to perfect the Security Interest in any Registered Intellectual Property Collateral acquired, owned, filed or developed by or on behalf of any Grantor after the date hereof.

(c) Each Grantor represents and warrants that the Intellectual Property Security Agreements containing a description of all Registered Intellectual Property Collateral (other than, in each case, any Excluded Assets), have been delivered as of or prior to the date hereof to the Administrative Agent for recording with the USPTO and the USCO pursuant to 35 U.S.C. § 261, 15 U.S.C. § 1060 or 17 U.S.C. § 205 and the regulations thereunder, as applicable (for the benefit of the Secured Parties) in respect of all Registered Intellectual Property Collateral to the extent required by this Agreement or the Credit Agreement. To the extent a security interest may be perfected by filing, recording or registration with the USPTO or the USCO under the U.S. Federal intellectual property laws, then no further or subsequent filing, re-filing, recording, rerecording, registration or reregistration is necessary (other than (i) such filings and actions as are necessary to perfect the Security Interest with respect to any Registered Intellectual Property Collateral acquired, owned, filed or developed by or on behalf of any Grantor after the date hereof and (ii) the UCC financing and continuation statements contemplated in Section 3.02(b)).

(d) The Security Interest constitutes (i) a legal and valid security interest in all the Article 9 Collateral securing the payment and performance of the Secured Obligations, (ii) subject to the filings described in Section 3.02(b), a perfected security interest in all Article 9 Collateral in which a security interest may be perfected by filing, recording or registering a financing statement or analogous document in the United States (or any political subdivision thereof) pursuant to the UCC, and (iii) subject to the filings described in Section 3.02(c), a perfected security interest in all Intellectual Property included in the Article 9 Collateral in which a security interest may be perfected by filing, recording or registering a security agreement or analogous document with the USPTO or the USCO, as applicable. The Security Interest is and shall be prior to any other Lien on any of the Article 9 Collateral, other than any Liens permitted pursuant to Section 7.01 of the Credit Agreement.

(e) The Article 9 Collateral is owned by the Grantors free and clear of any Lien, except for Liens permitted pursuant to Section 7.01 of the Credit Agreement. None of the Grantors has filed or consented to the filing of (i) any assignment in which any Grantor assigns any Article 9 Collateral or any security agreement or similar instrument covering any Article 9 Collateral with the USPTO or the USCO or (ii) any assignment in which any Grantor assigns any Collateral or any security agreement or similar instrument covering any Collateral with any foreign governmental, municipal or other office, which financing statement or analogous document, assignment, security agreement or similar instrument is still in effect, except, in each case, for Liens expressly permitted pursuant to Section 7.01 of the Credit Agreement and assignments expressly permitted by the Credit Agreement.

(f) As of the date hereof, no Grantor has any Commercial Tort Claim in respect of which a complaint or a counterclaim has been filed by such Grantor, seeking damages in an amount reasonably estimated to exceed \$2,500,000, other than the Commercial Tort Claims listed on Schedule III.

Section 3.03. Covenants.

(a) The Borrower agrees to notify the Administrative Agent in writing (x) promptly, but in any event within five (5) Business Days following (or such longer period as the Administrative Agent may agree in its reasonable discretion), any change in (i) the legal name of any Grantor, (ii) the identity or type of organization or corporate structure of any Grantor, or (iii) the jurisdiction of organization of any Grantor and (y) promptly, but at any event within twenty (20) Business Days (or such longer period as the Administrative Agent may agree in its reasonable discretion) after any change in (i) the chief executive office of any Grantor or (ii) the organizational identification number of such Grantor, if any.

(b) Subject to Section 3.01(e), each Grantor shall, at its own expense, upon the reasonable request of the Administrative Agent, take any and all commercially reasonable actions necessary to defend title to the Collateral against all Persons and to defend the Security Interest of the Administrative Agent in the Article 9 Collateral and the priority thereof against any Lien not permitted pursuant to Section 7.01 of the Credit Agreement; *provided* that, nothing in this Agreement shall prevent any Grantor from discontinuing the operation or maintenance of any of its assets or properties if such discontinuance is permitted by the Credit Agreement.

(c) Subject to Section 3.01(e), each Grantor agrees, at its own expense, to promptly execute, acknowledge, deliver and cause to be filed all such further instruments and documents and take all such actions as the Administrative Agent may from time to time reasonably request to better assure, preserve, protect and perfect the Security Interest and the rights and remedies created hereby, including the payment of any fees and taxes reasonably required in connection with the execution and delivery of this Agreement, the granting of the Security Interest and the filing of any financing statements or other documents in connection herewith or therewith. Notwithstanding the foregoing, nothing in this Agreement or in any other Loan Document shall require any Grantor to make any filings or take any other actions in any jurisdiction outside of the United States to record or perfect the Administrative Agent's security interest in any Intellectual Property of any Grantor.

(d) At its option after the occurrence and during the continuance of an Event of Default, upon five (5) Business Days' prior written notice to the Grantors, the Administrative Agent may discharge past due taxes, assessments, charges, fees, Liens, security interests or other encumbrances at any time levied or placed on the Collateral and not permitted pursuant to Section 7.01 of the Credit Agreement, and may pay for the maintenance and preservation of the Collateral to the extent any Grantor fails to do so as required by the Credit Agreement or any other Loan Document and within a reasonable period of time after the Administrative Agent has required that it do so, and each Grantor jointly and severally agrees to reimburse the Administrative Agent pursuant to the terms of the Credit Agreement; *provided, however*, the Grantors shall not be obligated to reimburse the Administrative Agent with respect to any Intellectual Property that any Grantor has failed to maintain or pursue, or otherwise allowed to lapse, terminate or be put into the public domain in accordance with Section 3.03(f)(iv). Nothing in this paragraph shall be interpreted as excusing any Grantor from the performance of, or imposing any obligation on the Administrative Agent or any Secured Party to cure or perform, any covenants or other promises of any Grantor with respect to taxes, assessments, charges, fees, Liens, security interests or other encumbrances and maintenance as set forth herein or in the other Loan Documents.

(e) If at any time any Grantor shall take a security interest in any property of an Account Debtor or any other Person the value of which is in excess of \$2,500,000 to secure payment and performance of an Account, such Grantor shall promptly grant a security interest to the Administrative Agent for the benefit of the Secured Parties; *provided* that, notwithstanding anything to the contrary

in this Agreement, such grant shall not constitute a grant of a security interest in any Excluded Assets. Such grant need not be filed of public record unless necessary to continue the perfected status of the security interest against creditors of and transferees from the Account Debtor or other Person granting the security interest.

(f) Intellectual Property Covenants.

(i) Other than to the extent not prohibited herein or in the Credit Agreement, or with respect to registrations and applications no longer used by or useful to Grantors in the applicable Grantor's business operations, or except to the extent failure to act would not, as deemed by the applicable Grantor in its reasonable business judgment, reasonably be expected to have a Material Adverse Effect, with respect to each registration or pending application of each item of its Intellectual Property for which such Grantor has standing to do so, each Grantor agrees to take, at its expense, all reasonable steps, including, without limitation, in the USPTO, the USCO and any other governmental authority located in the United States, to pursue the registration and maintenance of each Patent, Trademark, or Copyright registration or application now or hereafter included in the Collateral owned by such Grantor that are not Excluded Assets.

(ii) Other than to the extent not prohibited herein or in the Credit Agreement, or with respect to registrations and applications no longer used by or useful to Grantors in the applicable Grantor's business operations, or except as would not, as deemed by the applicable Grantor in its reasonable business judgment, reasonably be expected to have a Material Adverse Effect, no Grantor shall do or permit any act or knowingly omit to do any act whereby any Intellectual Property owned by such Grantor, excluding Excluded Assets, may lapse, be terminated, become invalid or unenforceable or placed in the public domain (or in the case of a trade secret, become publicly known).

(iii) Other than as excluded or as not prohibited herein or in the Credit Agreement, or with respect to Patents, Copyrights or Trademarks which are no longer used by or useful to Grantors in the applicable Grantor's business operations, or except where failure to do so would not, as deemed by the applicable Grantor in its reasonable business judgment, reasonably be expected to have a Material Adverse Effect, each Grantor shall take all reasonable steps to preserve and protect each item of Intellectual Property owned by such Grantor, including, without limitation, maintaining the quality of any and all products or services used or provided in connection with any of the Trademarks owned by such Grantor, consistent with the quality of the products and services as of the Closing Date, and taking reasonable steps necessary to ensure that all licensed users of any of the Trademarks abide by the applicable license's terms with respect to standards of quality.

(iv) Notwithstanding any other provision of this Agreement, nothing in this Agreement or any other Loan Document prevents or shall be deemed to prevent any Grantor from disposing of, discontinuing the use or maintenance of, failing to pursue, or otherwise allowing to lapse, terminate or be put into the public domain, any of its Intellectual Property to the extent permitted by the Credit Agreement if such Grantor determines in its reasonable business judgment that such disposition of, discontinuance, failure to pursue, or other allowance to lapse, termination, or placement in the public domain is desirable in the conduct of its business.

(v) Within the same delivery period as required for the delivery of the financial statements required to be delivered under Section 6.01(a) and (b) of the Credit Agreement, the Borrower shall provide a list of any Registered Intellectual Property Collateral owned by all Grantors not listed in any Intellectual Property Security Agreement previously delivered to the Administrative Agent, together with supplemental Intellectual Property Security Agreements covering all such Registered Intellectual Property Collateral duly executed by such Grantors and in proper form for recording, and shall promptly file and record such supplemental Intellectual Property Security Agreements with the USPTO or the USCO, as applicable.

(g) *Commercial Tort Claims.* If the Grantors shall at any time hold or acquire a Commercial Tort Claim in an amount reasonably estimated by such Grantor to exceed \$2,500,000 for which this clause has not been satisfied and for which a complaint in a court of competent jurisdiction has been filed, such Grantor shall, on the date on which a Compliance Certificate is delivered to the Administrative Agent pursuant to Section 6.02(a) of the Credit Agreement for the fiscal quarter in which such complaint was filed, notify the Administrative Agent thereof in a writing signed by such Grantor including a summary description of such claim and grant to the Administrative Agent, for the benefit of the Secured Parties, in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Agreement.

#### ARTICLE 4 REMEDIES

Section 4.01. *Remedies Upon Default.* Upon the occurrence and during the continuance of an Event of Default, it is agreed that the Administrative Agent shall have the right to exercise any and all rights afforded to a secured party with respect to the Secured Obligations, including the Guaranteed Obligations, under the UCC or other applicable Law or in equity and also may (i) require each Grantor to, and each Grantor agrees that it will at its expense and upon request of the Administrative Agent, promptly assemble all or part of the Collateral as directed by the Administrative Agent and make it available to the Administrative Agent at a place and time to be designated by the Administrative Agent that is reasonably convenient to both parties; (ii) occupy any premises owned or, to the extent lawful and permitted, leased by any of the Grantors where the Collateral or any part thereof is assembled or located for a reasonable period in order to effectuate its rights and remedies hereunder or under Law, without obligation to such Grantor in respect of such occupation; *provided* that the Administrative Agent shall provide the applicable Grantor with written notice thereof prior to such occupancy; (iii) exercise any and all rights and remedies of any of the Grantors under or in connection with the Collateral, or otherwise in respect of the Collateral; *provided* that the Administrative Agent shall provide the applicable Grantor with written notice thereof prior to such exercise; and (iv) subject to the mandatory requirements of applicable Law and the notice requirements described below, sell or otherwise dispose of all or any part of the Collateral securing the Secured Obligations at a public or private sale or at any broker's board or on any securities exchange, for cash, upon credit or for future delivery as the Administrative Agent shall deem appropriate. The Administrative Agent shall be authorized at any such sale of securities (if it deems it advisable to do so) to restrict the prospective bidders or purchasers to Persons who will represent and agree that they are purchasing the Collateral for their own account for investment and not with a view to the distribution or sale thereof, and upon consummation of any such sale the Administrative Agent shall have the right to assign, transfer and deliver to the purchaser or purchasers thereof the Collateral so sold. Each such purchaser at any sale of Collateral shall hold the property sold absolutely free from any claim or right on the part of any Grantor, and each Grantor hereby

waives (to the extent permitted by Law) all rights of redemption, stay and appraisal which such Grantor now has or may at any time in the future have under any Law now existing or hereafter enacted.

The Administrative Agent shall give the applicable Grantors 10 days' written notice (which each Grantor agrees is commercially reasonable notice within the meaning of Section 9-611 of the UCC or its equivalent in other jurisdictions) of the Administrative Agent's intention to make any sale of Collateral. Such notice, in the case of a public sale, shall state the time and place for such sale and, in the case of a sale at a broker's board or on a securities exchange, shall state the board or exchange at which such sale is to be made and the day on which the Collateral, or portion thereof, will first be offered for sale at such board or exchange. Any such public sale shall be held at such time or times within ordinary business hours and at such place or places as the Administrative Agent may fix and state in the notice (if any) of such sale. At any such sale, the Collateral, or portion thereof, to be sold may be sold in one lot as an entirety or in separate parcels, as the Administrative Agent may (in its sole and absolute discretion) determine. The Administrative Agent shall not be obligated to make any sale of any Collateral if it shall determine not to do so, regardless of the fact that notice of sale of such Collateral shall have been given. The Administrative Agent may, without notice or publication, adjourn any public or private sale or cause the same to be adjourned from time to time by announcement at the time and place fixed for sale, and such sale may, without further notice, be made at the time and place to which the same was so adjourned. In case any sale of all or any part of the Collateral is made on credit or for future delivery, the Collateral so sold may be retained by the Administrative Agent until the sale price is paid by the purchaser or purchasers thereof, but the Administrative Agent shall not incur any liability in case any such purchaser or purchasers shall fail to take up and pay for the Collateral so sold and, in case of any such failure, such Collateral may be sold again upon like notice. At any public (or, to the extent permitted by applicable Law, private) sale made pursuant to this Agreement, any Secured Party may bid for or purchase, free (to the extent permitted by applicable Law) from any right of redemption, stay, valuation or appraisal on the part of any Grantor (all said rights being also hereby waived and released to the extent permitted by applicable Law), the Collateral or any part thereof offered for sale and may make payment on account thereof by using any claim then due and payable to such Secured Party from any Grantor as a credit against the purchase price, and such Secured Party may, upon compliance with the terms of sale, hold, retain and dispose of such property without further accountability to any Grantor therefor. For purposes hereof, a written agreement to purchase the Collateral or any portion thereof shall be treated as a sale thereof; the Administrative Agent shall be free to carry out such sale pursuant to such agreement and no Grantor shall be entitled to the return of the Collateral or any portion thereof subject thereto, notwithstanding the fact that after the Administrative Agent shall have entered into such an agreement all Events of Default shall have been remedied and the Secured Obligations paid in full. As an alternative to exercising the power of sale herein conferred upon it, the Administrative Agent may proceed by a suit or suits at Law or in equity to foreclose this Agreement and to sell the Collateral or any portion thereof pursuant to a judgment or decree of a court or courts having competent jurisdiction or pursuant to a proceeding by a court-appointed receiver. Any sale pursuant to the provisions of this Section 4.01 shall be deemed to conform to the commercially reasonable standards as provided in Section 9-610(b) of the UCC or its equivalent in other jurisdictions.

Section 4.02. *Application of Proceeds.* The Administrative Agent shall apply the proceeds of any collection or sale of Collateral, including any Collateral consisting of cash in accordance with Section 8.03 of the Credit Agreement.

The Administrative Agent shall have absolute discretion as to the time of application of any such proceeds, moneys or balances in accordance with this Agreement. Upon any sale of Collateral by the Administrative Agent (including pursuant to a power of sale granted by statute or under a judicial proceeding), the receipt of the Administrative Agent or of the officer making the sale shall be a sufficient discharge to the purchaser or purchasers of the Collateral so sold and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid over to the Administrative Agent or such officer or be answerable in any way for the misapplication thereof.

The Administrative Agent shall have no liability to any of the Secured Parties for actions taken in reliance on information supplied to it as to the amounts of unpaid principal and interest and other amounts outstanding with respect to the Secured Obligations, *provided* that nothing in this sentence shall prevent any Grantor from contesting any amounts claimed by any Secured Party in any information so supplied. All distributions made by the Administrative Agent pursuant to this Section 4.02 shall be final (absent manifest error).

Section 4.03. *Grant of License to Use Intellectual Property.* For the exclusive purpose of enabling the Administrative Agent to exercise rights and remedies under this Agreement at and during the continuance of such time as the Administrative Agent shall be lawfully entitled to exercise such rights and remedies at any time after and during the continuance of an Event of Default, each Grantor hereby grants to the Administrative Agent a nonexclusive, royalty-free, limited license (exercisable until the termination or cure of the Event of Default) to use, license or sublicense any of the Intellectual Property now owned or hereafter acquired by such Grantor or for which such Grantor has the ability to grant sublicenses, and wherever the same may be located, and including in such license reasonable access to all media in which any of the licensed items may be recorded or stored and to all computer software used for the compilation or printout thereof; *provided, however*, that all of the foregoing rights of the Administrative Agent to use such licenses, sublicenses and other rights, and (to the extent permitted by the terms of such licenses and sublicenses) all licenses and sublicenses granted thereunder, shall expire immediately upon the termination or cure of all Events of Default (together with the Borrower's written notice to the Administrative Agent of such termination or cure) and shall be exercised by the Administrative Agent solely in connection with the Administrative Agent's exercise of remedies pursuant to Section 4.01 and, to the extent reasonably practicable, upon prior written notice to the Borrower, and nothing in this Section 4.03 shall require Grantors to grant any license that is prohibited by any rule of law, statute or regulation, or is prohibited by, or constitutes a breach or default under or results in the termination of any contract, license, agreement, instrument or other document evidencing, giving rise to or theretofore granted, to the extent permitted by the Credit Agreement, with respect to such property or otherwise unreasonably prejudices the value thereof to the relevant Grantor; *provided, further*, that any such license and any such license granted by the Administrative Agent to a third party shall include reasonable and customary terms and conditions necessary to preserve the existence, validity and enforceability of the affected Intellectual Property, including provisions requiring the continuing confidential handling of trade secrets, requiring the use of appropriate notices and prohibiting the use of false notices, quality control and inurement provisions with regard to Trademarks, patent designation provisions with regard to Patents, copyright notices and restrictions on decompilation and reverse engineering of copyrighted software (it being understood and agreed that, without limiting any other rights and remedies of the Administrative Agent under this Agreement, any other Loan Document or applicable Law, nothing in the foregoing license grant shall be construed as granting the Administrative Agent rights in and to such Intellectual Property above and beyond (x) the rights to such Intellectual Property that each Grantor has reserved for itself and (y) in the case of Intellectual Property that is licensed

to any such Grantor by a third party, the extent to which such Grantor has the right to grant a sublicense under such Intellectual Property hereunder). For the avoidance of doubt, the use of such license by the Administrative Agent may be exercised, at the option of the Administrative Agent, only during the continuance of an Event of Default. Upon the occurrence and during the continuance of an Event of Default, the Administrative Agent may also exercise the rights afforded under Section 4.01 of this Agreement with respect to Intellectual Property contained in the Article 9 Collateral.

Section 4.04. *Effect of Securities Laws.* Each Grantor recognizes that the Administrative Agent may be unable to effect a public sale of any or all of the Pledged Collateral by reason of certain prohibitions contained in the Securities Act and applicable state securities laws or otherwise, and may be compelled to resort to one or more private sales thereof to a restricted group of purchasers which will be obliged to agree, among other things, to acquire such securities for their own account for investment and not with a view to the distribution or resale thereof. Each Grantor acknowledges and agrees that any such private sale may result in prices and other terms less favorable than if such sale were a public sale and, notwithstanding such circumstances, agrees that any such private sale shall be deemed to have been made in a commercially reasonable manner. The Administrative Agent shall be under no obligation to delay a sale of any of the Pledged Collateral for the period of time necessary to permit the applicable issuer thereof to register such securities for public sale under the Securities Act, or under applicable state securities laws, even if such issuer would agree to do so.

Section 4.05 *Deficiency.* Each Grantor shall remain liable for any deficiency if the proceeds of any sale or other disposition of the Collateral are insufficient to pay its Secured Obligations and, to the extent set forth herein and in the other Loan Documents, the fees and disbursements of any attorneys employed by any Secured Party to collect such deficiency.

Section 4.06. *FCC Authorizations; Related Collateral.*

(a) The Administrative Agent's rights hereunder (and the rights of any receiver appointed by reason of the exercise of remedies hereunder) with respect to the FCC Authorizations and any Collateral subject to such FCC Authorizations, as applicable, are expressly subject to, and limited by any obligations and/or restrictions imposed by, the Communications Act.

(b) Notwithstanding anything to the contrary contained in this Agreement, but without waiving or limiting any obligations of any Grantor hereunder, neither the Administrative Agent nor any receiver appointed by reason of the exercise of remedies hereunder shall control, supervise, direct, or manage, or attempt to control, supervise, direct, or manage, the business of any Grantor, in any case that would constitute or result in any assignment of any FCC Authorization or a direct or indirect transfer of control of any Grantor, or any FCC Authorization, whether de jure or de facto, if such assignment or such direct or indirect transfer of control would require, under the Communications Act, the prior approval of the FCC or any other Governmental Authority without first obtaining such approval.

(c) Subject to the terms and conditions herein, each Grantor agrees to take any lawful action with respect to requesting and obtaining any approvals from any Governmental Authority that may be required by Law which the Administrative Agent may reasonably request in order to obtain and enjoy the full rights and benefits granted to the Administrative Agent and the Secured Parties by this Agreement, including, specifically, after the occurrence and during the continuance of any Event of Default and an exercise of the Administrative Agent's remedies hereunder, such Grantor's full cooperation in lawfully obtaining any approval of the FCC and of any other

Governmental Authority that is then required under the Communications Act or any other Law for the exercise of the Administrative Agent's remedies under this Agreement.

## ARTICLE 5 SUBORDINATION

### Section 5.01. Subordination.

(a) Notwithstanding any provision of this Agreement to the contrary, all rights of the Grantors to indemnity, contribution or subrogation under applicable Law or otherwise shall be fully subordinated to the payment in full of the Obligations (other than (i) contingent indemnification obligations as to which no claim has been asserted, (ii) Cash Management Obligations, (iii) obligations pursuant to Secured Hedge Agreements and (iv) the Outstanding Amount of the L/C Obligations related to Letters of Credit that have been Cash Collateralized, backstopped by a letter of credit reasonably satisfactory to the applicable L/C Issuer or deemed reissued under another agreement reasonably acceptable to the applicable L/C Issuer). No failure on the part of the Borrower or any other Grantor to make the payments required under applicable Law or otherwise shall in any respect limit the obligations and liabilities of any Grantor with respect to its obligations hereunder, and each Grantor shall remain liable for the full amount of the Obligations of such Grantor hereunder.

(b) Each Grantor hereby agrees that upon the occurrence and during the continuance of an Event of Default and after written notice from the Administrative Agent, all Indebtedness owed to it by any other Grantor shall be fully subordinated to the payment in full of the Obligations (other than (i) contingent indemnification obligations as to which no claim has been asserted (ii) Cash Management Obligations, (iii) obligations pursuant to Secured Hedge Agreements and (iv) the Outstanding Amount of the L/C Obligations related to Letters of Credit that have been Cash Collateralized, back-stopped by a letter of credit reasonably satisfactory to the applicable L/C Issuer or deemed reissued under another agreement reasonably acceptable to the applicable L/C Issuer).

## ARTICLE 6 MISCELLANEOUS

Section 6.01. *Notices.* All communications and notices hereunder shall (except as otherwise expressly permitted herein) be in writing and given as provided in Section 10.02 of the Credit Agreement. All communications and notices hereunder to the Borrower or any other Grantor shall be given to it in care of the Borrower as provided in Section 10.02 of the Credit Agreement.

### Section 6.02. Waivers; Amendment.

(a) No failure or delay by any Secured Party 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 such 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 of the Secured Parties herein provided, and provided under each other Loan Document, are cumulative and are not exclusive of any rights, remedies, powers and privileges provided by Law. No waiver of any provision of this Agreement or consent to any departure by any Grantor therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section 6.02, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing,

the making of a Loan, the issuance of a Letter of Credit or the provision of services under Treasury Services Agreements or Secured Hedge Agreements shall not be construed as a waiver of any Default or Event of Default, regardless of whether any Secured Party may have had notice or knowledge of such Default or Event of Default at the time.

(b) Neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Administrative Agent and the Grantor or Grantors with respect to which such waiver, amendment or modification is to apply, subject to the Collateral and Guarantee Requirement and any consent required in accordance with Section 10.01 of the Credit Agreement.

Section 6.03. Administrative Agent's Fees and Expenses; Indemnification.

(a) The parties hereto agree that the Administrative Agent shall be entitled to reimbursement of its reasonable and documented out-of-pocket expenses incurred hereunder and indemnity for its actions in connection herewith as provided in Sections 10.04 and 10.05 of the Credit Agreement.

(b) Any such amounts payable as provided hereunder shall be additional Secured Obligations secured hereby and by the other Collateral Documents. The provisions of this Section 6.03 shall remain operative and in full force and effect regardless of the termination of this Agreement or any other Loan Document, the consummation of the transactions contemplated hereby, the repayment of any of the Secured Obligations, the invalidity or unenforceability of any term or provision of this Agreement or any other Loan Document, or any investigation made by or on behalf of the Administrative Agent or any other Secured Party. All amounts due under this Section 6.03 shall be payable within 30 days of written demand therefor (including documentation reasonably supporting such request).

Section 6.04. *Successors and Assigns*. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties here to and their respective successors and assigns.

Section 6.05. *Survival of Agreement*. All covenants, agreements, representations and warranties made by the Grantors hereunder and in the other Loan Documents and in the certificates or other instruments prepared or delivered in connection with or pursuant to this Agreement shall be considered to have been relied upon by the Secured Parties and shall survive the execution and delivery of the Loan Documents, the making of any Loans and issuance of any Letters of Credit and the provision of services under Treasury Services Agreements or Secured Hedge Agreements, regardless of any investigation made by any Secured Party or on its behalf and notwithstanding that any Secured Party may have had notice or knowledge of any Default or Event of Default at the time any credit is extended under the Credit Agreement, and shall continue in full force and effect as long as this Agreement has not been terminated or released pursuant to Section 6.11 below.

Section 6.06. *Counterparts; Effectiveness; Several Agreement*. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery by facsimile or other electronic communication of an executed counterpart of a signature page to this Agreement shall be effective as delivery of an original executed counterpart of this Agreement. This Agreement shall become effective as to any Grantor when a counterpart hereof executed on behalf of such Grantor shall have been delivered to the Administrative Agent and a counterpart hereof shall have been executed on behalf of the Administrative Agent, and thereafter shall be binding upon such Grantor and the Administrative Agent and their respective permitted successors and assigns, and shall inure to the benefit of such Grantor, the Administrative Agent and the other Secured Parties and their respective permitted successors and assigns, except that no Grantor shall have the right to assign or transfer its rights or obligations hereunder or any interest herein (and any such assignment or transfer shall be void) without the prior written consent of the Administrative Agent, except to the extent permitted by the Credit Agreement. This Agreement shall be construed as a separate agreement with respect to each Grantor and may be amended, restated, modified, supplemented, waived or released with respect to any Grantor without the approval of any other Grantor and without affecting the obligations of any other Grantor hereunder.

Section 6.07. *Severability*. If any provision of this Agreement is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected or impaired thereby. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 6.08. *Governing Law; Jurisdiction; Venue; Waiver of Jury Trial; Consent to Service of Process*.

(a) The terms of Sections 10.15 and 10.16 of the Credit Agreement with respect to governing law, submission of jurisdiction, venue and waiver of jury trial are incorporated herein by reference, *mutatis mutandis*, and the parties hereto agree to such terms.

(b) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 6.01. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by Law.

Section 6.09. *Headings.* Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

Section 6.10. *Security Interest Absolute.* To the extent permitted by Law, all rights of the Administrative Agent hereunder, the Security Interest, the grant of a security interest in the Collateral and all obligations of each Grantor hereunder shall be absolute and unconditional irrespective of (a) any lack of validity or enforceability of the Credit Agreement, any other Loan Document, any agreement with respect to any of the Secured Obligations or any other agreement or instrument relating to any of the foregoing, (b) any change in the time, manner or place of payment of, or in any other term of, all or any of the Secured Obligations, or any other amendment or waiver of or any consent to any departure from the Credit Agreement, any other Loan Document or any other agreement or instrument, (c) any exchange, release or non-perfection of any Lien on other collateral, or any release or amendment or waiver of or consent under or departure from any guarantee, securing or guaranteeing all or any of the Secured Obligations or (d) any other circumstance that might otherwise constitute a defense (other than defense of payment or performance) available to, or a discharge of, any Grantor in respect of the Secured Obligations or this Agreement.

Section 6.11. Termination, Release or Subordination.

(a) This Agreement (other than with respect to provisions hereof that expressly survive termination), the Security Interest and all other security interests granted hereby shall terminate with respect to all Secured Obligations and any Liens arising therefrom shall be automatically released upon termination of the Aggregate Commitments and payment in full of all Secured Obligations and the expiration or termination of all Letters of Credit (other than, in each case, (a) contingent indemnification obligations as to which no claim has been asserted, (ii) Cash Management Obligations, (iii) obligations pursuant to Secured Hedge Agreements and (iv) the Outstanding Amount of the L/C Obligations related to Letters of Credit that have been Cash Collateralized, back-stopped by a letter of credit reasonably satisfactory to the applicable L/C Issuer or deemed reissued under another agreement reasonably acceptable to the applicable L/C Issuer).

(b) A Subsidiary Party shall automatically be released from its obligations hereunder and the Security Interest and any Liens granted herein to the Administrative Agent in the Collateral of such Subsidiary Party shall be automatically released upon the consummation of any transaction permitted by and in accordance with the terms of the Credit Agreement as a result of which such Subsidiary Party ceases to be a Restricted Subsidiary of the Borrower or becomes an Excluded Subsidiary.

(c) Upon any Disposition by any Grantor of any Collateral that is permitted under and in accordance with the terms of the Credit Agreement (other than a sale or transfer to another Loan Party), or upon the effectiveness of any written consent to the release of the security interest granted hereby in any Collateral pursuant to Section 10.01 of the Credit Agreement, the security interest in such Collateral shall be automatically released.

(d) The security interest granted hereby in any Collateral shall be subordinated to another Lien permitted by Section 7.01 of the Credit Agreement to be senior to the Liens securing the Secured Obligations, in accordance with the terms of Section 9.10(c) of the Credit Agreement, either (i) upon an election by the Administrative Agent to subordinate such security interest or (ii) in respect of Liens permitted by Sections 7.01(b), (u), (w) (with respect to assumed Indebtedness), (aa) (with

respect to Sections 7.01(b) and (u) of the Credit Agreement) and (bb) of the Credit Agreement, upon Borrower's reasonable request (with Administrative Agent's consent, not to be unreasonably withheld, delayed or conditioned).

(e) In connection with any termination or release pursuant to paragraph (a), (b), (c) or (d) of this Section 6.11, the Administrative Agent shall execute and deliver to any Grantor, at such Grantor's expense, all documents that such Grantor shall reasonably request to evidence such termination or release and shall perform such other actions reasonably requested by such Grantor to effect such release, including delivery of certificates, securities and instruments. Any execution and delivery of documents pursuant to this Section 6.11 shall be without recourse to or warranty by the Administrative Agent.

Section 6.12. *Additional Grantors.* Pursuant to Section 6.11 of the Credit Agreement, certain additional Restricted Subsidiaries of the Grantors may be required to enter in this Agreement as Grantors. Upon execution and delivery by the Administrative Agent and a Restricted Subsidiary of a Security Agreement Supplement, such Restricted Subsidiary shall become a Grantor hereunder with the same force and effect as if originally named as a Grantor herein. The execution and delivery of any such instrument shall not require the consent of any other Grantor hereunder, except to the extent obtained on or prior to such date and in full force and effect on such date. The rights and obligations of each Grantor hereunder shall remain in full force and effect notwithstanding the addition of any new Grantor as a party to this Agreement.

Section 6.13. *Administrative Agent Appointed Attorney-in-Fact.* Each Grantor hereby appoints the Administrative Agent the attorney-in-fact of such Grantor for the purpose of carrying out the provisions of this Agreement and taking any action and executing any instrument that the Administrative Agent may deem necessary or advisable to accomplish the purposes hereof, in each case, at any time after the occurrence and during the continuance of an Event of Default, which appointment is irrevocable and coupled with an interest. Without limiting the generality of the foregoing, the Administrative Agent shall have the right, after the occurrence and during the continuance of an Event of Default and, to the extent reasonably practicable, notice by the Administrative Agent to the applicable Grantor of the Administrative Agent's intent to exercise such rights, with full power of substitution either in the Administrative Agent's name or in the name of such Grantor (a) to receive, endorse, assign and/or deliver any and all notes, acceptances, checks, drafts, money orders or other evidences of payment relating to the Collateral or any part thereof; (b) to demand, collect, receive payment of, give receipt for and give discharges and releases of all or any of the Collateral; (c) to sign the name of any Grantor on any invoice or bill of lading relating to any of the Collateral; (d) upon prior written notice to the Borrower, to send verifications of accounts receivable to any Account Debtor; (e) to commence and prosecute any and all suits, actions or proceedings at Law or in equity in any court of competent jurisdiction to collect or otherwise realize on all or any of the Collateral or to enforce any rights in respect of any Collateral; (f) to settle, compromise, compound, adjust or defend any actions, suits or proceedings relating to all or any of the Collateral; (g) upon prior written notice to the Borrower, to notify, or to require the Borrower or any Grantor to notify, Account Debtors to make payment directly to the Administrative Agent; (h) upon prior written notice to the Borrower, to otherwise communicate with any Account Debtor; (i) to make, settle and adjust claims in respect of Collateral under policies of insurance, endorse the name of such Grantor on any check, draft, instrument or other item of payment for the proceeds of such policies of insurance; (j) to make all determinations and decisions with respect to policies of insurance; (k) to obtain or maintain the policies of insurance required by Section 6.07 of the Credit Agreement or to pay any premium in whole or in part relating thereto; and (l) except as prohibited

by the Communications Act as an unauthorized transfer of control, to use, sell, assign, transfer, pledge, make any agreement with respect to or otherwise deal with all or any of the Collateral, and to do all other acts and things necessary to carry out the purposes of this Agreement, as fully and completely as though the Administrative Agent were the absolute owner of the Collateral for all purposes; *provided* that nothing herein contained shall be construed as requiring or obligating the Administrative Agent to make any commitment or to make any inquiry as to the nature or sufficiency of any payment received by the Administrative Agent, or to present or file any claim or notice, or to take any action with respect to the Collateral or any part thereof or the moneys due or to become due in respect thereof or any property covered thereby. The Administrative Agent and the other Secured Parties shall be accountable only for amounts actually received as a result of the exercise of the powers granted to them herein, and neither they nor their officers, directors, employees or agents shall be responsible to any Grantor for any act or failure to act hereunder, except for their own gross negligence, bad faith, willful misconduct, or material breach of this Agreement or that of any of their Affiliates, directors, officers, employees, partners, advisors, counsel, agents, attorneys-in-fact or other representatives, in each case, as determined by a final non-appealable judgment of a court of competent jurisdiction. All sums disbursed by the Administrative Agent in connection with this paragraph shall be payable pursuant to the terms of Section 10.04 of the Credit Agreement.

Section 6.14. *General Authority of the Administrative Agent.* By acceptance of the benefits of this Agreement and any other Collateral Documents, each Secured Party (whether or not a signatory hereto) shall be deemed irrevocably (a) to consent to the appointment of the Administrative Agent as its agent hereunder and under such other Collateral Documents, (b) to confirm that the Administrative Agent shall have the authority to act as the exclusive agent of such Secured Party for the enforcement of any provisions of this Agreement and such other Collateral Documents against any Grantor, the exercise of remedies hereunder or thereunder and the giving or withholding of any consent or approval hereunder or thereunder relating to any Collateral or any Grantor's obligations with respect thereto, (c) to agree that it shall not take any action to enforce any provisions of this Agreement or any other Collateral Document against any Grantor, to exercise any remedy hereunder or thereunder or to give any consents or approvals hereunder or thereunder except as expressly provided in this Agreement or any other Collateral Document and (d) to agree to be bound by the terms of this Agreement and any other Collateral Documents.

Section 6.15. *Reasonable Care.* The Administrative Agent is required to use reasonable care in the custody and preservation of any of the Collateral in its possession; *provided*, that the Administrative Agent shall be deemed to have used reasonable care in the custody and preservation of any of the Collateral, if such Collateral is accorded treatment substantially similar to that which the Administrative Agent accords its own property.

Section 6.16. *Delegation; Limitation.* The Administrative Agent may execute any of the powers granted under this Agreement and perform any duty hereunder either directly or by or through agents or attorneys-in-fact, and shall not be responsible for the gross negligence or willful misconduct of any agents or attorneys-in-fact selected by it with reasonable care and without gross negligence or willful misconduct.

Section 6.17. *Reinstatement.* The obligations of the Grantors under this Agreement shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of the Borrower or other Loan Party in respect of the Secured Obligations is rescinded or must be otherwise restored by any holder of any of the Secured Obligations, whether as a result of any proceedings in bankruptcy or reorganization or otherwise.

Section 6.18. *Intercreditor Agreements.* Notwithstanding anything herein to the contrary, the priority of the Liens and the Security Interest granted to the Administrative Agent pursuant to this Agreement and the exercise of any right or remedy by the Administrative Agent hereunder, are subject in all respects to the provisions of the Intercreditor Agreements. In the event of any conflict between the terms of any Intercreditor Agreement and this Agreement with respect to the priority of the Liens and the Security Interest granted to the Administrative Agent pursuant to this Agreement or with respect to the exercise of any right or remedy by the Administrative Agent hereunder, the terms of such Intercreditor Agreement shall govern and control.

[Signature Pages Follow]

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

EMERGING MARKETS COMMUNICATIONS, LLC as  
Borrower

EMC ACQUISITION, LLC

SCISCO PARENT, INC.

SEAMOBILE, INC.

MARITEL HOLDINGS, INC.

MARITIME TELECOMMUNICATIONS NETWORK,  
INC.

MTN GOVERNMENT SERVICES, INC.

MTN LICENSE CORP.

MTN INTERNATIONAL, INC.

By: /s/ Abel Avellan

Name: Abel Avellan  
Title: Chief Executive Officer

*[Signature Page to First Lien Security Agreement]*

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EMC-JV HOLDCO LLC

By: /s/ James Scola  
Name: James Scola  
Title: Assistant Secretary

*[Signature Page to First Lien Security Agreement]*

MORGAN STANLEY SENIOR FUNDING, INC., as  
Administrative Agent

By: /s/ Andrew Earls  
Name: Andrew Earls  
Title: Authorized Signatory

*[Signature Page to First Lien Security Agreement]*

## AMENDMENT NO. 1 TO FIRST LIEN SECURITY AGREEMENT

THIS AMENDMENT NO. 1 TO FIRST LIEN SECURITY AGREEMENT, dated as of May 9, 2016 (this "Agreement"), is made by and among the Grantors party hereto and Morgan Stanley Senior Funding, Inc., as administrative agent (in such capacity, the "Administrative Agent").

### WITNESSETH:

WHEREAS, EMC Acquisition, LLC, a Delaware limited liability company ("Holdings"), Emerging Markets Communications, LLC, a Delaware limited liability company (the "Borrower"), certain Subsidiaries of the Borrower and the Administrative Agent have entered into that certain First Lien Security Agreement, dated as of July 1, 2015 (as amended, restated, amended and restated, supplemented or otherwise modified prior to the date hereof, the "Existing Security Agreement"; the Existing Security Agreement, as amended by this Agreement, the "Security Agreement"; all capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Security Agreement unless the context otherwise requires);

WHEREAS, Global Eagle Entertainment Inc., a Delaware corporation, intends to acquire (the "EMC Acquisition") 100% of the issued and outstanding membership interests of EMC Intermediate, LLC, a Delaware limited liability company and direct parent of Holdings; and

WHEREAS, in connection with the EMC Acquisition, Holdings, the Borrower, the Guarantors party thereto, the Lenders party thereto and the Administrative Agent entered into that certain Amendment No. 1 to First Lien Credit Agreement, dated as of May 9, 2016 (the "Credit Agreement Amendment"), which, subject to the satisfaction of certain conditions precedent described therein, amends that certain First Lien Credit Agreement, dated as of July 1, 2015 (as amended by the Credit Agreement Amendment, and as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Holdings, the Borrower, the other Guarantors from time to time party thereto, the Lenders party thereto, the Administrative Agent, and Morgan Stanley Senior Funding, Inc., as L/C Issuer and Swing Line Lender;

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein contained, the Loan Parties and the Administrative Agent hereby agree as follows:

### Article I

#### AMENDMENT OF EXISTING SECURITY AGREEMENT

SECTION 1.1 Subject solely to the satisfaction of the condition set forth in Article II hereof, the Existing Security Agreement is hereby amended as follows:

(a) The definition of "Grantor" in Section 1.01 of the Existing Security Agreement is hereby deleted in its entirety and replaced with the following:

“**Grantor**” means Parent, the Borrower, each Guarantor that is a party hereto, and each Guarantor that becomes a party to this Agreement after the Closing Date.”

(b) The following definitions are added to Section 1.01 of the Existing Security Agreement in alphabetical order:

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“**Bail-In Action**” means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

“**Bail-In Legislation**” means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

“**EEA Financial Institution**” means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent;

“**EEA Member Country**” means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

“**EEA Resolution Authority**” means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

“**EU Bail-In Legislation Schedule**” means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

“**Parent**” shall mean Global Eagle Entertainment Inc., a Delaware corporation.

“**Write-Down and Conversion Powers**” means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.”

(c) Section 2.01(i)(B)(2) of the Security Agreement is hereby amended and restated as follows:

“any Restricted Subsidiary that is a wholly owned Foreign Subsidiary that is directly owned by Parent, Holdings, the Borrower or by any Subsidiary Guarantor of Parent;”

(d) The references to “the Borrower” in Section 2.04 and Section 6.11(b) of the Existing Security Agreement is hereby replaced by “Parent”.

(e) The first sentence of Section 6.12 of the Existing Security Agreement is hereby replaced with the following:

“Pursuant to Section 6.11 of the Credit Agreement, certain additional Guarantors may be required to enter in this Agreement as Grantors.”

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(f) Section 6.19 is hereby added to the Existing Security Agreement as follows:

**“SECTION 6.19 Acknowledgement and Consent to Bail-in of EEA Financial Institutions.** Notwithstanding anything to the contrary in this Agreement or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under this Agreement, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

- (a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and
- (b) the effects of any Bail-in Action on any such liability, including, if applicable:
  - (i) a reduction in full or in part or cancellation of any such liability;
  - (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or
  - (iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.”

## ARTICLE II

### CONDITIONS TO EFFECTIVENESS

This Agreement shall be binding on the parties hereto on the date the Administrative Agent has confirmed receipt of counterparts of this Agreement duly executed and delivered by (i) the Grantors and (ii) Holdings, the Borrower and each Grantor that is a Subsidiary of Holdings.

## ARTICLE III

### MISCELLANEOUS

SECTION 3.1 Full Force and Effect; Amendment. Except as expressly provided herein, this Agreement shall not by implication or otherwise limit, impair, constitute a waiver of, or otherwise affect the rights and remedies of the Administrative Agent or the Lenders under the Existing Security Agreement or any other Loan Document, and shall not alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the Existing Security Agreement or any other Loan Document, all of which are ratified and affirmed in all respects and shall continue in full force and effect.

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Nothing herein shall be deemed to entitle any Loan Party to a consent to, or a waiver, amendment, modification or other change of, any of the terms, conditions, obligations, covenants or agreements contained in the Existing Security Agreement or any other Loan Document in similar or different circumstances.

SECTION 3.2 Loan Document Pursuant to Credit Agreement. **THIS AGREEMENT IS A LOAN DOCUMENT EXECUTED PURSUANT TO THE CREDIT AGREEMENT AND SHALL BE CONSTRUED, ADMINISTERED AND APPLIED IN ACCORDANCE WITH ALL OF THE TERMS AND PROVISIONS OF THE CREDIT AGREEMENT, INCLUDING, WITHOUT LIMITATION, THE PROVISIONS RELATING TO FORUM SELECTION, CONSENT TO JURISDICTION AND WAIVER OF JURY TRIAL INCLUDED IN SECTION 10.16 OF THE CREDIT AGREEMENT, WHICH PROVISIONS ARE HEREBY ACKNOWLEDGED AND CONFIRMED BY EACH OF THE PARTIES HERETO.**

SECTION 3.3 Headings. The various headings of this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Agreement or any provisions hereof.

SECTION 3.4 Execution in Counterparts. This Agreement may be executed by the parties hereto in counterparts, each of which shall be deemed to be an original and all of which shall constitute together but one and the same agreement. Delivery by facsimile or other electronic transmission of an executed counterpart of a signature page to this Agreement shall be effective as delivery of an original executed counterpart of this Agreement.

SECTION 3.5 Cross-References. References in this Agreement to any Article or Section are, unless otherwise specified or otherwise required by the context, to such Article or Section of this Agreement.

SECTION 3.6 Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such provision and such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

SECTION 3.7 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

SECTION 3.8 **GOVERNING LAW**. **THIS AGREEMENT SHALL BE DEEMED TO BE A CONTRACT MADE UNDER AND GOVERNED BY THE LAW OF THE STATE OF NEW YORK, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.**

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

EMERGING MARKETS COMMUNICATIONS, LLC, as  
Borrower

By: /s/ David M. Davis  
Name: David M. Davis  
Title: Chief Executive Officer

EMC ACQUISITION, LLC

By: /s/ David M. Davis  
Name: David M. Davis  
Title: Chief Executive Officer

SCISCO PARENT, INC.

By: /s/ David M. Davis  
Name: David M. Davis  
Title: Chief Executive Officer

SEAMOBILE INC.

By: /s/ David M. Davis  
Name: David M. Davis  
Title: Chief Executive Officer

MARITEL HOLDINGS, INC.

By: /s/ David M. Davis  
Name: David M. Davis  
Title: Chief Executive Officer

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MARITIME TELECOMMUNICATIONS NETWORK,  
INC.

By: /s/ David M. Davis  
Name: David M. Davis  
Title: Chief Executive Officer

MTN GOVERNMENT SERVICES, INC.

By: /s/ David M. Davis  
Name: David M. Davis  
Title: Chief Executive Officer

MTN LICENSE CORP.

By: /s/ David M. Davis  
Name: David M. Davis  
Title: Chief Executive Officer

MTN INTERNATIONAL, INC.

By: /s/ David M. Davis  
Name: David M. Davis  
Title: Chief Executive Officer

EMC-JV HOLDCO LLC

By: /s/ David M. Davis  
Name: David M. Davis  
Title: Chief Executive Officer

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MORGAN STANLEY SENIOR FUNDING, INC., as  
Administrative Agent

By: /s/ Reagan Philipp  
Name: Reagan Philipp  
Title: Authorized Signatory

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## FIRST LIEN SECURITY AGREEMENT SUPPLEMENT

FIRST LIEN SECURITY AGREEMENT SUPPLEMENT, dated as of July 27, 2016 (this “**Security Agreement Supplement**”), made by Global Eagle Entertainment Inc., a Delaware corporation (“**Parent**”), and each entity listed on Schedule 1 hereto (the “**Subsidiary Grantors**” and, together with Parent, each an “**Additional Grantor**” and, collectively, the “**Additional Grantors**”), in favor of Morgan Stanley Senior Funding, Inc., as Administrative Agent for the Secured Parties (in such capacity and together with its successors and permitted assigns, the “**Administrative Agent**”). Capitalized terms not defined herein shall have the meaning assigned to such terms in the Security Agreement (as defined below).

### WITNESSETH:

WHEREAS, EMC Acquisition, LLC, a Delaware limited liability company, Emerging Markets Communications, LLC, a Delaware limited liability company, the other Guarantors party thereto from time to time, Morgan Stanley Senior Funding, Inc., as the Administrative Agent, each lender from time to time party thereto (collectively, the “**Lenders**” and, individually, a “**Lender**”), Morgan Stanley Bank, N.A., as L/C Issuer, and Morgan Stanley Senior Funding, Inc., as Swing Line Lender, have entered into that certain First Lien Credit Agreement, dated as of July 1, 2015, as amended by that certain Amendment No. 1 to First Lien Credit Agreement (the “**First Amendment**”), dated as of May 9, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”);

WHEREAS, in connection with the Credit Agreement, Holdings, the Borrower, certain Subsidiaries of the Borrower and the Administrative Agent have entered into that certain First Lien Security Agreement, dated as of July 1, 2015, as amended by that certain Amendment No. 1 to First Lien Security Agreement dated as of the date hereof (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Security Agreement**”);

WHEREAS, the Credit Agreement requires each Additional Grantor to become a party to the Security Agreement; and

WHEREAS, each Additional Grantor has agreed to execute and deliver this Security Agreement Supplement in order to become a party to the Security Agreement;

NOW, THEREFORE, IT IS AGREED:

1. **SECURITY AGREEMENT.** By executing and delivering this Security Agreement Supplement, each Additional Grantor, as provided in Section 6.12 of the Security Agreement, hereby (i) becomes a party to the Security Agreement as a Grantor thereunder with the same force and effect as if originally named therein as a Grantor and, without limiting the generality of the foregoing, hereby expressly assumes all obligations and liabilities of a Grantor thereunder and (ii) grants to the Administrative Agent for the benefit of the Secured Parties, a security interest in all of such Additional Grantor’s right, title and interest in, to and under all Collateral, as security for the Secured Obligations. The information set forth in Annex 1-A is hereby added to the information set forth in Schedules I and II to the Security Agreement. Each Additional Grantor hereby represents and warrants that each of the representations and warranties contained in Section 3.02 of the Security Agreement is true and correct on and as the date hereof (after giving effect to this Security Agreement Supplement) as if made on and as of such date, *provided* that, to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct as of such earlier date.

2. Subject to Section 6.15 of the Security Agreement, each Grantor hereby irrevocably authorizes the Administrative Agent for the benefit of the Secured Parties at any time and from time to time to file in any relevant jurisdiction any financing statements with respect to the Collateral or any part thereof and amendments thereto and continuations thereof that (i) indicate the Collateral as “all assets of the debtor, whether now existing or hereafter arising” or words of similar effect as being of an equal or lesser scope or with greater detail and (ii) contain the information required by Article 9 of the UCC or the analogous legislation of each applicable jurisdiction for the filing of any financing statement or amendment, including whether such Grantor is an organization, the type of organization and, if required, any organizational identification number issued to such Grantor. Each Grantor agrees to provide such information to the Administrative Agent promptly upon any reasonable request.

3. **GOVERNING LAW. THIS SECURITY AGREEMENT SUPPLEMENT AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON OR ARISING OUT OF THIS SECURITY AGREEMENT SUPPLEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.**

[Remainder of page intentionally left blank]

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IN WITNESS WHEREOF, the undersigned have caused this Security Agreement Supplement to be duly executed and delivered by its authorized officer as of the date first above written.

**GLOBAL EAGLE ENTERTAINMENT INC.**

By: /s/ David Davis  
Name: David Davis  
Title: Chief Executive Officer

**AIRLINE MEDIA PRODUCTIONS, INC.**

By: /s/ David Davis  
Name: David Davis  
Title: Chief Executive Officer

**ENTERTAINMENT IN MOTION, INC.**

By: /s/ David Davis  
Name: David Davis  
Title: Chief Executive Officer

**GLOBAL EAGLE ENTERTAINMENT OPERATIONS SOLUTIONS, INC.**

By: /s/ David Davis  
Name: David Davis  
Title: Chief Executive Officer

**EMC INTERMEDIATE, LLC**

By: /s/ David Davis  
Name: David Davis  
Title: Chief Executive Officer

**INFLIGHT PRODUCTIONS USA INC.**

By: /s/ David Davis  
Name: David Davis  
Title: Chief Executive Officer

**POST MODERN EDIT, INC.**

By: /s/ David Davis  
Name: David Davis  
Title: Chief Executive Officer

**THE LAB AERO, INC.**

By: /s/ David Davis  
Name: David Davis  
Title: Chief Executive Officer

**ROW 44, INC.**

By: /s/ David Davis  
Name: David Davis  
Title: Chief Executive Officer

**N44HQ, LLC**

By: /s/ David Davis

Name: David Davis

Title: Chief Executive Officer

Signature Page to First Lien Security Agreement Supplement

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**Schedule 1**

**SUBSIDIARY GRANTORS**

<b>Subsidiary Guarantor</b>	<b>Jurisdiction of Formation/Organization</b>
Global Eagle Entertainment Operations Solutions, Inc.	Delaware
EMC Intermediate, LLC	Delaware
Entertainment in Motion, Inc.	California
Inflight Productions USA Inc.	California
The Lab Aero, Inc.	California
Post Modern Edit, Inc.	Delaware
Row 44, Inc.	Delaware
Airline Media Productions, Inc.	Delaware
N44HQ, LLC	Delaware

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**ANNEX 1-A**

See attached.

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## **Schedule I**

### **Subsidiary Parties**

- Global Eagle Entertainment Operations Solutions, Inc.
  - EMC Intermediate, LLC
  - Entertainment In Motion, Inc.
  - Inflight Productions USA Inc.
  - Post Modern Edit, Inc.
  - Row 44, Inc.
  - Airline Media Productions, Inc.
  - The Lab Aero, Inc.
  - N44HQ, LLC
-

**Schedule II**

**Pledged Equity and Pledged Debt**

**Equity Interests of Companies and Subsidiaries**

Record Owner	Current Legal Entities Owned	Certificate No.	No. Shares/Interest	Percent Pledged
Global Eagle Entertainment, Inc.	Global Eagle Entertainment Luxembourg I S.a r.l.	uncertificated	13,000	65%
	Global Eagle Entertainment Operations Solutions, Inc.	1	100	100%
	EMC Intermediate, LLC	uncertificated	100	100%
	Entertainment in Motion, Inc.	8	200	100%
	Inflight Productions USA Inc.	2	100	100%
	Post Modern Edit, Inc.	2	1,000	100%
	Row 44, Inc.	82	1,000	100%
	Airline Media Productions, Inc.	2	1,000	100%
Inflight Productions USA Inc.	The Lab Aero, Inc.	2	1,000	100%
Row 44, Inc.	N44HQ, LLC	1	100% Membership Interest	100%
	32221777 Nova Scotia Limited	3	65	65%
	Row44 Russia LLC	N/A	N/A	N/A

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<sup>1</sup> Certificate numbers for certificates evidencing Pledged Equity of Foreign Subsidiaries that are Immaterial Subsidiaries are not provided and are marked "N/A".

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## Debt Interests of Companies and Subsidiaries

### Promissory Notes

- 1) Intercompany Note, dated as of January 31, 2013, as amended by that certain Amendment to Promissory Note, dated January 27, 2016, in an initial principal amount of \$55,000,000.00, between Global Eagle Entertainment, Inc., as the Lender, and Global Eagle Entertainment Luxembourg II S.à.r.l., as the Borrower (outstanding balance of \$16,327,362.99 as of December 31, 2015).
  - 2) Intercompany Note, dated as of February 8, 2013, as amended by that certain Amendment to Promissory Note, dated as of January 27, 2016, in an initial principal amount of \$26,155,000.00, between Global Eagle Entertainment, Inc., as the Lender, and Global Eagle Entertainment Luxembourg II S.à.r.l., as the Borrower (outstanding balance of \$26,722,527.69 as of December 31, 2015).
  - 3) Intercompany Note, dated as of March 7, 2014, in an initial principal amount of \$36,245,950.00, between Global Eagle Entertainment, Inc., as the Lender, and Global Eagle Entertainment Luxembourg II S.à.r.l., as the Borrower (outstanding balance of \$36,844,752.94 as of December 31, 2015).
  - 4) Intercompany Note, dated as of September 11, 2014, in an initial principal amount of \$541,840.00, between Global Eagle Entertainment, Inc., as the Lender, and Global Eagle Entertainment Luxembourg II S.à.r.l., as the Borrower (outstanding balance of \$549,128.86 as of December 31, 2015).
  - 5) Intercompany Note, dated as of August 4, 2015, in an initial principal amount of \$4,870,000.00, between Global Eagle Entertainment, Inc., as the Lender, and Global Eagle Entertainment Luxembourg II S.à.r.l., as the Borrower (outstanding balance of \$4,889,880.27 as of December 31, 2015).
  - 6) Intercompany Note, dated as of December 15, 2015, in an initial principal amount of \$631,055.00, between Global Eagle Entertainment, Inc., as the Lender, and DTI Software Incorporation, as the Borrower (outstanding balance of \$631,331.63 as of December 31, 2015).
  - 7) Intercompany Note, dated as of December 15, 2015, in an initial principal amount of \$423,324.00, between Global Eagle Entertainment, Inc., as the Lender, and Global Entertainment GmbH, as the Borrower (outstanding balance of \$423,509.57 as of December 31, 2015).
  - 8) Intercompany Note, dated as of December 15, 2015, in an initial principal amount of \$218,067.00, between Global Eagle Entertainment, Inc., as the Lender, and PMG California, Inc., as the Borrower (outstanding balance of \$218,162.59 as of December 31, 2015).
-

- 9) Intercompany Note, dated as of December 15, 2015, in an initial principal amount of \$41,425.00, between Global Eagle Entertainment, Inc., as the Lender, and Inflight Productions Pte Ltd., as the Borrower (outstanding balance of \$41,443.16 as of December 31, 2015).
  - 10) Intercompany Note, dated as of December 15, 2015, in an initial principal amount of \$132,509.00, between Global Eagle Entertainment, Inc., as the Lender, and DTI Software FZ-LLC, as the Borrower (outstanding balance of \$132,567.09 as of December 31, 2015).
  - 11) Intercompany Note, dated as of December 15, 2015, in an initial principal amount of \$126,983.00, between Global Eagle Entertainment, Inc., as the Lender, and Inflight Productions FZ-LLC, as the Borrower (outstanding balance of \$127,038.66 as of December 31, 2015).
  - 12) Intercompany Note, dated as of May 1, 2013, in an initial principal amount of \$2,892,480, between Global Eagle Entertainment, Inc., as the Lender, and Global Eagle Entertainment Luxembourg II S.à.r.l., as the Borrower.
-

**Schedule III**

**Commercial Tort Claims**

None.

\$92,000,000

SECOND LIEN CREDIT AGREEMENT

Dated as of July 1, 2015

among

EMC ACQUISITION, LLC,  
as Holdings,

EMERGING MARKETS COMMUNICATIONS, LLC,  
as the Borrower,

THE OTHER GUARANTORS PARTY HERETO FROM TIME TO TIME,

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

and

THE OTHER LENDERS PARTY HERETO FROM TIME TO TIME

MORGAN STANLEY SENIOR FUNDING, INC.,  
CITIZENS BANK, NATIONAL ASSOCIATION  
and MACQUARIE CAPITAL (USA) INC.,  
as Joint Lead Arrangers and Joint Bookrunning Managers,

and

CITIZENS BANK, NATIONAL ASSOCIATION  
and MACQUARIE CAPITAL (USA) INC.,  
as Joint Syndication Agents

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## SECOND LIEN CREDIT AGREEMENT

This SECOND LIEN CREDIT AGREEMENT is entered into as of July 1, 2015, among EMC ACQUISITION, LLC, a Delaware limited liability company, EMERGING MARKETS COMMUNICATIONS, LLC, a Delaware limited liability company, the Guarantors party hereto from time to time, MORGAN STANLEY SENIOR FUNDING, INC., as Administrative Agent, and each lender from time to time party hereto (collectively, the “**Lenders**” and, individually, a “**Lender**”).

### PRELIMINARY STATEMENTS

Pursuant to the Agreement and Plan of Merger, dated as of April 21, 2015 (together with the exhibits, annexes and disclosure schedules thereto, as amended, supplemented or modified from time to time, the “**Acquisition Agreement**”), by and among EMC Acquisition Holdings, LLC, a Delaware limited liability company, Scisco Parent, Inc., a Delaware corporation and subsidiary of the Borrower, Scisco Merger Sub, Inc., a Washington corporation and a subsidiary of Scisco Parent, Inc. (“**Mergersub**”), the Borrower (for certain limited purposes) and SeaMobile, Inc., a Washington corporation (“**Target**”), Mergersub will be merged with and into the Target, and the Target will be the surviving entity resulting from the merger as a wholly-owned indirect subsidiary of the Borrower (the “**Acquisition**”).

The Borrower has requested that, substantially simultaneously with the consummation of the Acquisition, the Lenders extend credit to the Borrower in the form of Initial Term Loans (as this and other capitalized terms used in these preliminary statements are defined in Section 1.01 below) on the Closing Date.

The proceeds of the Initial Term Loans, together with cash on hand, and the proceeds of the First Lien Term Loans and any Revolving Credit Loans made on the Closing Date under the First Lien Credit Agreement will be used on the Closing Date (i) to refinance all existing credit facilities and material debt for borrowed money of the Borrower and its Subsidiaries and of Target and its Subsidiaries, (ii) to finance the Acquisition and (iii) to pay fees and expenses incurred in connection with the Transactions.

The applicable Lenders have indicated their willingness to lend on the terms and subject to the conditions set forth herein.

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

### ARTICLE 1 DEFINITIONS AND ACCOUNTING TERMS

#### SECTION 1.01 Defined Terms.

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

“**Acceptable Discount**” has the meaning set forth in Section 2.05(a)(v)(D)(2).

“**Acceptable Prepayment Amount**” has the meaning set forth in Section 2.05(a)(v)(D)(3).

“**Acceptance and Prepayment Notice**” means a notice of the Borrower’s acceptance of the Acceptable Discount in substantially the form of Exhibit E-3.

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“**Acceptance Date**” has the meaning set forth in Section 2.05(a)(v)(D)(2).

“**Acquisition**” has the meaning set forth in the preliminary statements to this Agreement.

“**Acquisition Agreement**” has the meaning set forth in the preliminary statements to this Agreement.

“**Additional Lender**” has the meaning set forth in Section 2.14(c).

“**Additional Refinancing Lender**” means, at any time, any bank, financial institution or other institutional lender or investor (other than any such bank, financial institution or other institutional lender or investor that is a Lender at such time) that agrees to provide any portion of Credit Agreement Refinancing Indebtedness pursuant to a Refinancing Amendment in accordance with Section 2.15; provided that (x) each Additional Refinancing Lender shall be subject to the approval of (i) the Administrative Agent, such approval not to be unreasonably withheld, conditioned or delayed, to the extent that each such Additional Refinancing Lender is not then an existing Lender, an Affiliate of a then existing Lender or an Approved Fund and (ii) the Borrower and (y) any such Additional Refinancing Lender that is an Affiliated Lender shall be subject to the provisions of Section 10.07(k), *mutatis mutandis*, to the same extent as if such Credit Agreement Refinancing Indebtedness and related Obligations had been obtained by such Lender by way of assignment.

“**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 account as set forth on Schedule 10.02(a), or such other address or account as the Administrative Agent may from time to time notify the Borrower and the Lenders.

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

“**Advisors**” has the meaning set forth in Section 10.08.

“**Affected Class**” has the meaning set forth in Section 3.07(a).

“**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. “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.

“**Affiliated Lender**” means, at any time, any Lender that is the Sponsor (including portfolio companies of the Sponsor notwithstanding the exclusion in the definition of “Sponsor”), Par Capital or a Non-Debt Fund Affiliate (other than, in any case, Parent, the Borrower or any of their respective Subsidiaries and other than any Debt Fund Affiliate).

“**Affiliated Lender Assignment and Assumption**” has the meaning set forth in Section 10.07(k)(ii).

“**Affiliated Lender Cap**” has the meaning set forth in Section 10.07(k)(iv).

“**Agent Parties**” has the meaning set forth in Section 10.02(b).

“**Agent-Related Persons**” means the Agents, together with their respective Affiliates, officers, directors, employees, partners, agents, advisors and other representatives.

“**Agents**” means, collectively, the Administrative Agent, the Syndication Agents, the Arrangers and the Bookrunners.

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

“**Agreement**” means this Second Lien Credit Agreement, as the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“**Amendment No. 1**” means the Amendment No. 1 to Second Lien Credit Agreement dated as of May 9, 2016, by and among the Borrower, Holdings, the other Guarantors party thereto, the Lenders party thereto and the Administrative Agent.

“**Amendment No. 1 Effective Date**” means “Amendment Effective Date” as defined in the Amendment No. 1.

“**Amendment Transactions**” means, collectively, (a) the GEE Acquisition and (b) the payment of any fees or expenses incurred or paid by Parent, Holdings, the Borrower or any of their respective Subsidiaries in connection with the GEE Acquisition and Amendment No. 1.

“**Annual Financial Statements**” means the audited consolidated balance sheets of each of the Borrower and Target, in each case as of December 31, 2012, December 31, 2013 and December 31, 2014, and the respective related consolidated statements of income and statements of cash flows for each of the Borrower and Target for the respective fiscal years then ended.

“**Applicable Discount**” has the meaning set forth in Section 2.05(a)(v)(C)(2).

“**Applicable ECF Percentage**” means, for any fiscal year, (a) (x) prior to the Discharge of the First Lien Secured Obligations, 50% if the Consolidated First Lien Net Leverage Ratio (determined on a Pro Forma Basis in accordance with Section 1.09) as of the last day of such fiscal year is greater than 3.50 to 1.00 and (y) from and after the Discharge of the First Lien Secured Obligations, 50% if the Consolidated Total Net Leverage Ratio (determined on a Pro Forma Basis in accordance with Section 1.09) as of the last day of such fiscal year is greater than 4.90 to 1.00, (b) (x) prior to the Discharge of the First Lien Secured Obligations, 25% if the Consolidated First Lien Net Leverage Ratio (determined on a Pro Forma Basis in accordance with Section 1.09) as of the last day of such fiscal year is less than or equal to 3.50 to 1.00 and greater than 3.00 to 1.00 and (y) from and after the Discharge of the First Lien Secured Obligations, 25% if the Consolidated Total Net Leverage Ratio (determined on a Pro Forma Basis in accordance with Section 1.09) as of the last day of such fiscal year is less than or equal to 4.90 to 1.00 and greater than 4.50 to 1.00 and (c) (x) prior to the Discharge of the First Lien Secured Obligations, 0% if the Consolidated First Lien Net Leverage Ratio (determined on a Pro Forma Basis in accordance with Section 1.09) as of the last day of such fiscal year is less than or equal to 3.00 to 1.00 and (y) from and after the Discharge of the First Lien Secured Obligations, 0% if the Consolidated Total Net Leverage Ratio (determined on a Pro Forma Basis in accordance with Section 1.09) as of the last day of such fiscal year is less than or equal to 4.50 to 1.00.

“**Applicable Rate**” means a percentage per annum equal to (a) for Eurocurrency Rate Loans, 9.625% and (b) for Base Rate Loans, 8.625%.

Notwithstanding the foregoing, (v) the Applicable Rate in respect of any Class of Extended Term Loans shall be the applicable percentages per annum set forth in the relevant Extension Amendment, (w) the Applicable Rate in respect of any Class of Incremental Term Loans shall be the applicable percentages per annum set forth in the relevant Incremental Amendment, (x) the Applicable Rate in respect of any Class of Replacement Term Loans shall be the applicable percentages per annum set forth in the relevant agreement relating thereto, (y) the Applicable Rate in respect of any Class of Refinancing Term Loans shall be the applicable percentages per annum set forth in the relevant agreement relating thereto and (z) in the case of the Initial Term Loans, the Applicable Rate shall be increased as, and to the extent, necessary to comply with the provisions of Section 2.14(e).

“**Appropriate Lender**” means, at any time, with respect to Loans of any Class, the Lenders of such Class.

“**Approved Bank**” has the meaning set forth in clause (c) of the definition of “Cash Equivalents.”

“**Approved Fund**” means, with respect to any Lender, 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.

“**Arrangers**” means MSSF, Citizens and Macquarie, each in its capacity as a joint lead arranger under this Agreement.

“**Assignee**” has the meaning set forth in Section 10.07(b)(i).

“**Assignment and Assumption**” means an Assignment and Assumption substantially in the form of Exhibit E-1 hereto.

“**Assignment Taxes**” has the meaning set forth in Section 3.01(b).

“**Attorney Costs**” means and includes all reasonable and documented fees, out of pocket expenses and disbursements of any law firm or other external legal counsel.

“**Attributable Indebtedness**” means, on any date, 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.

“**Auction Agent**” means (a) the Administrative Agent or (b) any other financial institution or advisor employed by the Borrower (whether or not an Affiliate of the Administrative Agent) to act as an arranger in connection with any Discounted Term Loan Prepayment pursuant to Section 2.05(a)(v); provided that the Borrower shall not designate the Administrative Agent as the Auction Agent without the written consent of the Administrative Agent (it being understood that the Administrative Agent shall be under no obligation to agree to act as the Auction Agent); provided, further, that neither the Borrower nor any of its Affiliates may act as the Auction Agent.

“**Bail-In Action**” means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

“**Bail-In Legislation**” means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

“**Bankruptcy Code**” means Title 11 of the United States Code entitled “Bankruptcy”, as now and hereafter in effect, or any successor statute.

“**Base Rate**” means for any day a fluctuating rate per annum equal to the highest of (i) the Federal Funds Effective Rate plus 1/2 of 1%, (ii) the rate of interest in effect for such day as published by the Wall Street Journal, from time to time, as the “prime rate” and (iii) the rate per annum determined in the manner set forth in clause (b) of the definition of Eurocurrency Rate plus 1%; provided that, notwithstanding the foregoing, in no event shall the Base Rate applicable to the Initial Term Loans at any time be less than 2.00% per annum. Any change in the Base Rate due to a change in such rate announced by the Administrative Agent or in the Federal Funds Effective Rate shall take effect at the opening of business on the day specified in the announcement of such change.

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

“**Board**” has the meaning set forth in the definition of “Statutory Reserves.”

“**Bookrunner**” means each of MSSF, Citizens and Macquarie, each in its capacity as a joint bookrunning manager.

“**Borrower**” means Emerging Markets Communications, LLC, a Delaware limited liability company.

“**Borrower Materials**” has the meaning set forth in Section 6.01.

“**Borrower Offer of Specified Discount Prepayment**” means the offer by any Company Party to make a voluntary prepayment of Term Loans at a Specified Discount to par pursuant to Section 2.05(a)(v)(B).

“**Borrower Solicitation of Discount Range Prepayment Offers**” means the solicitation by any Company Party of offers for, and the corresponding acceptance by a Lender of, a voluntary prepayment of Term Loans at a specified range of discounts to par pursuant to Section 2.05(a)(v)(C).

“**Borrower Solicitation of Discounted Prepayment Offers**” means the solicitation by any Company Party of offers for, and the subsequent acceptance, if any, by a Lender of, a voluntary prepayment of Term Loans at a discount to par pursuant to Section 2.05(a)(v)(D).

“**Borrowing**” means a borrowing consisting of Term Loans of the same Type and Class and, in the case of Eurocurrency Rate Loans, having the same Interest Period, made by each of the Term Lenders pursuant to Section 2.01 or under any Incremental Amendment, Extension Amendment or Refinancing Amendment.

“**Business Day**” means (i) 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, the State of New York, and (ii) if such day relates to any Eurocurrency Rate Loan, any such day that is also a London Banking Day.

“**Capital Expenditures**” means, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities and including in all events all amounts expended or capitalized under Capitalized Leases) by Parent and its Restricted Subsidiaries during such period that, in conformity with GAAP, are or are required to be included as capital expenditures on the consolidated statement of cash flows of Parent and its Restricted Subsidiaries.

“**Capitalized Leases**” means all leases that have been or are required to be, in accordance with GAAP, recorded as capitalized leases; provided that for all purposes hereunder the amount of obligations under any Capitalized Lease shall be the amount thereof accounted for as a liability in accordance with GAAP.

“**Capitalized Software Expenditures**” means, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities) by Parent and its Restricted Subsidiaries during such period in respect of purchased software or internally developed software and software enhancements that, in conformity with GAAP, are or are required to be reflected as capitalized costs on the consolidated balance sheet of Parent and its Restricted Subsidiaries.

“**Cash Collateral Account**” means a blocked account at a commercial bank selected by the Administrative Agent, in the name of the Borrower and under the sole dominion and control (within the meaning of the UCC) of the Administrative Agent, and otherwise established in a manner reasonably satisfactory to the Administrative Agent.

“**Cash Equivalents**” means any of the following types of Investments, to the extent owned by the Parent or any Restricted Subsidiary:

(a) Dollars;

(b) readily marketable obligations issued or directly and fully guaranteed or insured by the government or any agency or instrumentality of the United States having average maturities of not more than 24 months from the date of acquisition thereof; provided that the full faith and credit of the United States is pledged in support thereof;

(c) (i) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, a province of Canada, the United Kingdom or any country which is a member of the Organisation for Economic Cooperation and Development; (ii) readily-marketable securities issued by any agency of the Canadian federal government, the United Kingdom or any country which is a member of the Organisation for Economic Cooperation and Development, the obligations of which are fully backed by the full faith and credit of the United States or Canadian government, the United Kingdom or any country which is a member of the Organisation for Economic Cooperation and Development, as applicable; and (iii) any readily-marketable direct obligations issued by any other agency of the Canadian government, any province of Canada or any political subdivision of any such state or province or any public instrumentality thereof, the United Kingdom or any country which is a member of the Organisation for Economic Cooperation and Development; provided that, in each case of (i), (ii), and (iii) above, such obligations, such obligations or securities (x) mature within one year from the date of acquisition thereof and (y) have a rating of at least “A-1” from S&P and at least “P-1” from Moody’s;

(d) time deposits or eurodollar time deposits with, insured certificates of deposit, bankers’ acceptances or overnight bank deposits of, or letters of credit issued by, any commercial bank that (i) is a Lender or a lender under the First Lien Credit Agreement or (ii) (A) is organized under the Laws of the United States, any state thereof, the District of Columbia or any member nation of the Organisation for Economic Co-operation and Development or is the principal banking Subsidiary of a bank holding company organized under the Laws of the United States, any state thereof, the District of Columbia or any member nation of the Organization for Economic Cooperation and Development and is a member of the Federal Reserve System, and (B) has combined capital and surplus of at least \$250,000,000 or \$100,000,000 in the case of any

non-U.S. bank (any such bank in the foregoing clauses (i) or (ii) being an “**Approved Bank**”), in each case with maturities not exceeding 24 months from the date of acquisition thereof;

(e) commercial paper and variable or fixed rate notes issued by an Approved Bank (or by the parent company thereof) or any variable or fixed rate note issued by, or guaranteed by, a corporation (other than structured investment vehicles and other than corporations used in structured financing transactions) and rated A-2 (or the equivalent thereof) or better by S&P or P-2 (or the equivalent thereof) or better by Moody’s, in each case with average maturities of not more than 24 months from the date of acquisition thereof;

(f) marketable short-term money market and similar funds having a rating of at least P-2 or A-2 from either Moody’s or S&P, respectively (or, if at any time neither Moody’s nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency selected by Parent);

(g) repurchase obligations for underlying securities of the types described in clauses (b), (c), (d) and (f) above entered into with any Approved Bank;

(h) securities with average maturities of 24 months or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States, by any political subdivision or taxing authority of any such state, commonwealth or territory or by any foreign government having an investment grade rating from either S&P or Moody’s (or the equivalent thereof);

(i) Investments (other than in structured investment vehicles and structured financing transactions) with average maturities of 12 months or less from the date of acquisition in money market funds rated AAA- (or the equivalent thereof) or better by S&P or Aaa3 (or the equivalent thereof) or better by Moody’s;

(j) securities with maturities of 12 months or less from the date of acquisition backed by standby letters of credit issued by any Approved Bank;

(k) (i) instruments equivalent to those referred to in clauses (a) through (j) above denominated in Euros or any other foreign currency comparable in credit quality and tenor to those referred to above and customarily used by corporations for cash management purposes in any jurisdiction outside the United States to the extent and in amounts reasonably required in connection with any business conducted by any Restricted Subsidiary organized in such jurisdiction and (ii) in the case of any Foreign Subsidiary, such local currencies in those countries in which such Foreign Subsidiary transacts business from time to time in the ordinary course of business;

(l) Investments, classified in accordance with GAAP as Current Assets of the Borrower or any Restricted Subsidiary, in money market investment programs which are registered under the Investment Company Act of 1940 or which are administered by financial institutions having capital of at least \$250,000,000, and, in either case, the portfolios of which are limited such that substantially all of such Investments are of the character, quality and maturity described in clauses (a) through (k) above; and

(m) investment funds investing at least 90% of their assets in securities of the types described in clauses (a) through (l) above.

Notwithstanding the foregoing, Cash Equivalents shall include amounts denominated in currencies other than those set forth in clauses (a) and (k) above; provided that such amounts are converted into any currency listed in clause (a) or (k) as promptly as practicable and in any event within ten Business Days following the receipt of such amounts.

“**Casualty Event**” means any event that gives rise to the receipt by Parent or any Restricted Subsidiary of any insurance proceeds or condemnation awards in respect of any equipment, fixed assets or real property (including any improvements thereon) to replace or repair such equipment, fixed assets or real property.

“**CFC**” means a Subsidiary of Parent that is a “controlled foreign corporation” within the meaning of Section 957 of the Code.

“**CFC Holding Company**” means a Domestic Subsidiary of Parent that owns no material assets (directly or through one or more disregarded entities) other than the equity (including any debt instrument treated as equity for U.S. federal income tax purposes) of one or more Foreign Subsidiaries that are CFCs.

“**Change of Control**” shall be deemed to occur if:

(a) any person or “group” (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act as in effect on the Closing Date) (but excluding (x) any employee benefit plan of such person and its Subsidiaries and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan, (y) Par Capital, and (z) any one or more direct or indirect parent companies of Parent in which Par Capital, directly or indirectly, owns the largest percentage of such parent company’s voting Equity Interests) shall have, directly or indirectly, acquired beneficial ownership of Equity Interests representing 35% or more of the aggregate voting power represented by the issued and outstanding Equity Interests of Parent and Par Capital shall own, directly or indirectly, less than such person or “group” of the aggregate voting power represented by the issued and outstanding Equity Interests of Parent;

(b) a “change of control” (or similar event) shall occur in any document pertaining to the First Lien Credit Agreement, First Lien Credit Agreement Refinancing Indebtedness, First Lien Incremental Equivalent Debt, First Lien Incremental Term Loans, Incremental Equivalent Debt, Credit Agreement Refinancing Indebtedness or Permitted Ratio Debt (or any Permitted Refinancing of any of the foregoing), in each case with an aggregate outstanding principal amount in excess of the Threshold Amount; or

(c) Parent shall cease to own, directly or indirectly, 100% of the Equity Interests of the Borrower.

“**Citizens**” means Citizens Bank, National Association.

“**Class**” (a) when used with respect to any Lender, refers to whether such Lender has a Loan or Commitment with respect to a particular Class of Loans or Commitments, (b) when used with respect to Commitments, refers to whether such Commitments are Initial Term Commitments, Incremental Term Commitments, Refinancing Term Commitments of a given Refinancing Series or Commitments in respect of Replacement Term Loans and (c) when used with respect to Loans or a Borrowing, refers to whether such Loans, or the Loans comprising such Borrowing, are Initial Term Loans, Extended Term Loans of a given Extension Series, Incremental Term Loans, Refinancing Term Loans of a given Refinancing Series or Replacement Term Loans. Commitments (and in each case, the Loans made pursuant to such Commitments) that have different terms and conditions shall be construed to be in

different Classes. Commitments (and, in each case, the Loans made pursuant to such Commitments) that have the same terms and conditions shall be construed to be in the same Class.

“**Closing Date**” means July 1, 2015.

“**Closing Date Intercreditor Agreement**” means an intercreditor agreement substantially in the form of Exhibit I hereto (which agreement in such form or with such changes made in accordance with Section 10.01 and such other immaterial changes thereto the Administrative Agent is authorized to enter into) together with any material changes thereto in light of prevailing market conditions, which material changes shall be posted to the Lenders not less than five Business Days before execution thereof and, if the Required Lenders shall not have objected to such changes within five Business Days after posting, then the Required Lenders shall be deemed to have agreed that the Administrative Agent entry into such intercreditor agreement (with such changes) is reasonable and to have consented to such intercreditor agreement (with such changes) and to the Administrative Agent’s execution thereof.

“**CNI True-Up Amount**” means, for the first fiscal quarter of each fiscal year of (a) prior to the Amendment No. 1 Effective Date, the Borrower, and (b) on and after the Amendment No. 1 Effective Date, Parent, an amount (if positive) equal to (x) the aggregate amount that increased Consolidated Net Income under clauses (e)(x) (to the extent relating to amounts paid in cash or Cash Equivalents by WMS to JV Holdings pursuant to section 5.2.2 of the WMS LLC Agreement) and (e)(y) of the definition of Consolidated Net Income during the immediately preceding fiscal year of (a) prior to the Amendment No. 1 Effective Date, the Borrower, and (b) on and after the Amendment No. 1 Effective Date, Parent, minus (y) the aggregate amount of distributions actually paid in cash or Cash Equivalents by WMS to JV Holdings pursuant to section 5.2.2 of the WMS LLC Agreement during such immediately preceding fiscal year of (a) prior to the Amendment No. 1 Effective Date, the Borrower, and (b) on and after the Amendment No. 1 Effective Date, Parent.

“**Code**” means the Internal Revenue Code of 1986, and the regulations of the United States Department of the Treasury promulgated thereunder, as amended from time to time (unless as specifically provided otherwise).

“**Collateral**” means the “Collateral” as defined in the Security Agreement and all the “Collateral” or “Pledged Assets” (or equivalent terms) as defined in any other Collateral Document and any other assets pledged pursuant to any Collateral Document (but in any event excluding the Excluded Assets).

“**Collateral and Guarantee Requirement**” means, at any time, the requirement that:

(a) subject to Section 4.01(a), the Administrative Agent shall have received each Collateral Document required to be delivered (i) on the Closing Date, pursuant to Section 4.01(a)(v) and Section 6.11(c) and (ii) at such time as may be designated therein or herein, pursuant to the Collateral Documents or Section 6.11 or 6.13, duly executed by each Loan Party thereto;

(b) subject to Section 4.01(a), all Obligations shall have been unconditionally guaranteed by Parent, EMC Intermediate, Holdings, the Borrower (other than with respect to its direct Obligations as a primary obligor (as opposed to a guarantor) under the Loan Documents) and each Material Domestic Subsidiary (other than any Excluded Subsidiary) including those that are listed on Schedule 1.01(B) hereto (each, a “**Guarantor**”);

(c) the Secured Obligations and the Guaranty shall have been secured pursuant to the Security Agreement by a second-priority security interest (subject to Liens permitted by Section

7.01) in (i) all of the Equity Interests of EMC Intermediate, Holdings, the Borrower and Target, (ii) all of the Equity Interests of each Restricted Subsidiary (other than any Immaterial Subsidiary) that is a wholly owned Domestic Subsidiary (other than a Domestic Subsidiary described in the following clause (iii)) directly owned by the Loan Parties, (iii) 65% of the issued and outstanding Equity Interests of each Restricted Subsidiary that is a CFC Holding Company that is directly owned by Parent, EMC Intermediate, Holdings, the Borrower or by any Subsidiary Guarantor, and (iv) 65% of the issued and outstanding Equity Interests of each Restricted Subsidiary that is a wholly owned Foreign Subsidiary that is directly owned by Parent, EMC Intermediate, Holdings, the Borrower or by any Subsidiary Guarantor, in each case other than any Excluded Assets;

(d) except to the extent otherwise provided hereunder, including subject to Liens permitted by Section 7.01, or under any Collateral Document, the Secured Obligations and the Guaranty shall have been secured by a perfected second-priority security interest (to the extent such security interest may be perfected by delivering certificated securities, filing financing statements under the Uniform Commercial Code or making any necessary filings with respect to the security interest with the United States Patent and Trademark Office or United States Copyright Office or to the extent required in the Security Agreement (or any other Collateral Document)) or by Mortgages referred to in clause (e) below in Collateral of the Borrower and each Guarantor (including accounts, inventory, equipment, investment property, contract rights, applications and registrations of intellectual property filed in the United States, other general intangibles, Material Real Property, intercompany notes and proceeds of the foregoing), in each case, (i) with the priority required by the Collateral Documents and (ii) subject to exceptions and limitations otherwise set forth in this Agreement (for the avoidance of doubt, including the limitations and exceptions set forth in Section 4.01) and the Collateral Documents; and

(e) the Administrative Agent shall have received (i) counterparts of a Mortgage with respect to each Material Real Property required to be delivered pursuant to Sections 6.11 and 6.13 (the "**Mortgaged Properties**") duly executed and delivered by the applicable Loan Party, (ii) a title insurance policy for such property available in each applicable jurisdiction (the "**Mortgage Policies**") insuring the Lien of each such Mortgage as a valid second-priority Lien on the property described therein, free of any other Liens except as permitted by Section 7.01, together with such endorsements, coinsurance and reinsurance as the Administrative Agent may reasonably request, (iii) a completed Life-of-Loan Federal Emergency Management Agency Standard Flood Hazard Determination with respect to each Mortgaged Property (together with a notice about special flood hazard area status and flood disaster assistance duly executed by the Borrower and each Loan Party relating thereto) and, if any improvements on any Mortgaged Property are located within an area designated a "flood hazard area," evidence of such flood insurance as may be required under Section 6.07, (iv) ALTA surveys in form and substance reasonably acceptable to the Administrative Agent or such existing surveys together with no-change affidavits sufficient for the title company to remove all standard survey exceptions from the Mortgage Policies and issue the endorsements required in clause (ii) above, (v) copies of any existing abstracts and appraisals and (vi) such legal opinions and other documents as the Administrative Agent may reasonably request with respect to any such Mortgaged Property;

provided, however, that (i) the foregoing definition shall not require, and the Loan Documents shall not contain any requirements as to, (A) the creation or perfection of pledges of, security interests in, Mortgages on, or the obtaining of title insurance, surveys, abstracts or appraisals or taking other actions with respect to any Excluded Assets and (B) any other assets that, in the reasonable judgment of the Administrative Agent and the Borrower, the cost of creating, perfecting or maintaining such pledges or security interests in such assets or obtaining title insurance, surveys, abstracts or appraisals in respect of

such assets shall be excessive in view of the value of such assets or the practical benefit to the Lenders afforded thereby and (ii) the Liens required to be granted from time to time pursuant to the Collateral and Guarantee Requirement shall be subject to exceptions and limitations set forth in this Agreement and the Collateral Documents.

The Administrative Agent may grant extensions of time for the perfection of security interests in, or the delivery of the Mortgages and the obtaining of title insurance and surveys with respect to, particular assets and the delivery of assets (including extensions beyond the Closing Date for the perfection of security interests in the assets of the Loan Parties on such date) or any other compliance with the requirements of this definition where it reasonably determines, in consultation with the Borrower, that perfection or compliance cannot be accomplished without undue effort or expense by the time or times at which it would otherwise be required by this Agreement or the Collateral Documents.

No actions in any non-U.S. jurisdiction or required by the Laws of any non-U.S. jurisdiction shall be required in order to create any security interests in assets located, titled, registered or filed outside of the U.S. or to perfect such security interests (it being understood that there shall be no security agreements or pledge agreements governed under the Laws of any non-U.S. jurisdiction).

The foregoing definition shall not require (i) control agreements and perfection by “control” with respect to any Collateral other than, to the extent required by the Administrative Agent, certificated Equity Interests of the Borrower and, to the extent constituting Collateral, its Restricted Subsidiaries and Restricted Subsidiaries of Parent or (ii) landlord waivers, estoppels and collateral access letters.

“**Collateral Documents**” means, collectively, the Security Agreement, the Intercreditor Agreements, the Intellectual Property Security Agreements, the Mortgages, collateral assignments, Security Agreement Supplements, security agreements, pledge agreements, intellectual property security agreements or other similar agreements delivered to the Administrative Agent pursuant to Section 4.01(a)(v), 6.11 or 6.13 and each of the other agreements, instruments or documents that creates or purports to create a Lien in favor of the Administrative Agent for the benefit of the Secured Parties.

“**Commitment**” means an Initial Term Commitment, Incremental Term Commitment, Refinancing Term Commitment of a given Refinancing Series or Commitment in respect of Replacement Term Loans, as the context may require.

“**Commitment Letter**” means the Amended and Restated Commitment Letter, dated as of May 7, 2015, among the Borrower and the Commitment Parties.

“**Commitment Parties**” means, collectively, MSSF, Citizens, Macquarie and MIHI LLC.

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

“**Commodity Exchange Act**” means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

“**Communications Act**” means the Communications Act of 1934, as amended, and the rules, regulations, and published policies of the FCC.

“**Company Parties**” means, collectively, Parent and its Restricted Subsidiaries, including the Borrower, and “**Company Party**” means any one of them.

“**Compensation Period**” has the meaning set forth in Section 2.12(c)(ii).

“**Compliance Certificate**” means a certificate substantially in the form of Exhibit D-1 hereto.

“**Confidential Information Memorandum**” shall mean the Confidential Information Memorandum of the Borrower dated May 28, 2015.

“**Consolidated EBITDA**” means, for any period, the Consolidated Net Income for such period, *plus*:

(a) without duplication and, except with respect to clauses (vii)(B), (x) and (xi) below, to the extent deducted (and not added back or excluded) in arriving at such Consolidated Net Income, the sum of the following amounts for such period with respect to Parent and its Restricted Subsidiaries:

(i) total interest expense determined in accordance with GAAP (including, to the extent deducted and not added back in computing Consolidated Net Income, (A) amortization of original issue discount resulting from the issuance of Indebtedness at less than par, (B) all commissions, discounts and other fees and charges owed with respect to letters of credit or bankers acceptances, (C) non-cash interest payments, (D) the interest component of Capitalized Leases, (E) net payments, if any, pursuant to interest Swap Contracts with respect to Indebtedness, (F) amortization of deferred financing fees, debt issuance costs, commissions and fees, and (G) the interest component of any pension or other post-employment benefit expense) and, to the extent not reflected in such total interest expense, any losses on hedging obligations or other derivative instruments entered into for the purpose of hedging interest rate risk, net of interest income and gains on such hedging obligations, and costs of surety bonds in connection with financing activities (whether amortized or immediately expensed),

(ii) without duplication, provision for taxes based on income, profits or capital gains of Parent and the Restricted Subsidiaries, including, without limitation, federal, state, foreign, local, franchise and similar taxes and foreign withholding taxes paid or accrued during such period including penalties and interest related to such taxes or arising from any tax examinations and any tax distributions made pursuant to Section 7.06(h)(iii),

(iii) depreciation and amortization (including amortization of intangible assets, deferred financing fees, debt issuance costs, commissions, fees and expenses, bridge, commitment and other financing fees, discounts, yield) and other fees and charges (including amortization of unrecognized prior service costs and actuarial gains and losses related to pensions and other post-employment benefits, of Parent and its Restricted Subsidiaries),

(iv) unusual, exceptional or non-recurring charges, expenses or losses,

(v) non-cash charges, expenses or losses, including, without limitation, any non-cash expense relating to the vesting of warrants (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 to such extent, and excluding amortization of a prepaid cash item that was paid in a prior period),

(vi) retention, recruiting, relocation and signing bonuses and expenses, stock option and other equity-based compensation expenses, severance costs, stay bonuses, transaction fees and expenses and management fees and expenses, and any one time expense relating to enhanced accounting function or other transaction costs, including those associated with becoming a public company (including, without duplication, any such payments made in connection with the consummation of the Transactions),

(vii) (A) the amount of any restructuring charges and related charges, restructuring costs, integration costs, transition costs, consolidation and closing costs for facilities, costs incurred in connection with any non-recurring strategic initiatives, costs incurred in connection with acquisitions and non-recurring intellectual property development after the Closing Date, other business optimization expenses (including costs and expenses relating to business optimization programs and new systems design and implementation costs), project start-up costs and other restructuring charges, accruals or reserves (including restructuring costs related to acquisitions after the Closing Date and to closure/consolidation of facilities, retention charges, systems establishment costs and excess pension charges) and (B) the amount of cost savings, operating expense reductions, other operating improvements and synergies projected by Parent in good faith to result from actions taken or expected to be taken in connection with the Transactions or any Specified Transaction or the implementation of an operational initiative or operational change after the Closing Date (in each case calculated on a Pro Forma Basis as though such cost savings, operating expense reductions, other operating improvements and synergies had been realized on the first day of such period and as if such cost savings, operating expense reductions, other operating improvements and synergies were realized during the entirety of such period), net of the amount of actual benefits realized during such period from such actions; provided that (x) a duly completed certificate signed by a Responsible Officer of Parent shall be delivered to the Administrative Agent together with the Compliance Certificate required to be delivered pursuant to Section 6.02, certifying that such cost savings, operating expense reductions, other operating improvements and synergies are (i) reasonably supportable and quantifiable in the good faith judgment of Parent, and (ii) reasonably anticipated to be realized within (I) in the case of any such cost savings, operating expense reductions, other operating improvements and synergies in connection with the Transactions, 18 months after the Closing Date and (II) in all other cases, 18 months after the consummation of the Specified Transaction or the implementation of an initiative or change, which is expected to result in such cost savings, expense reductions, other operating improvements or synergies, (y) no cost savings, operating expense reductions and synergies shall be added pursuant to this clause (vii) to the extent duplicative of any expenses or charges otherwise added to Consolidated EBITDA, whether through a *pro forma* adjustment or otherwise, for such period and (z) the aggregate add-backs pursuant to this clause (vii)(B) (plus any adjustments made pursuant to Section 1.09(c) but excluding any adjustments consistent with Article 11 of Regulation S-X promulgated under the Securities Act and as interpreted by the staff of the SEC) (i) for the Test Period ending June 30, 2016 and the Test Period ending September 30, 2016, shall not exceed 30% of Consolidated EBITDA for such Test Period (calculated after giving effect to any such add-backs or adjustments) and (ii) for the Test Period ending December 31, 2016, and each Test Period thereafter, shall not exceed 20% of Consolidated EBITDA for such Test Period (calculated after giving effect to any such add-backs or adjustments),

(viii) the *pro forma* adjustments identified in the quality of earnings report of PricewaterhouseCoopers LLP provided by Target and made available to ABRY Partners, LLC or in the Sponsor Model,

(ix) other accruals, payments and expenses (including rationalization, legal, tax, structuring and other costs and expenses), or any amortization thereof, related to the Transactions (including all Transaction Expenses), acquisitions, Investments, dividends, Dispositions, or any amortization thereof, issuances of Indebtedness or Equity Interests permitted under the Loan Documents or repayment of debt, issuance of equity securities, refinancing transactions or amendment or other modification of any debt instrument (in each case, including any such transaction consummated on the Closing Date and any such transaction undertaken but not completed),

(x) to the extent not already included in Consolidated Net Income, proceeds of business interruption insurance (to the extent actually received),

(xi) cash receipts (or any netting arrangements resulting in reduced cash expenditures) not representing Consolidated EBITDA or Consolidated Net Income in any period to the extent non-cash gains relating to such income were deducted in the calculation of Consolidated EBITDA pursuant to paragraph (b) below for any previous period and not added back,

(xii) any non-cash increase in expenses (A) resulting from the revaluation of inventory (including any impact of changes to inventory valuation policy methods including changes in capitalization of variances) or other inventory adjustments, or (B) due to purchase accounting associated with the Transactions, or any acquisition constituting an Investment permitted under this Agreement consummated prior to or after the Closing Date,

(xiii) the amount of any expense or reduction of Consolidated Net Income consisting of Restricted Subsidiary income attributable to minority interests or non-controlling interests of third parties in any non-wholly owned Restricted Subsidiary; provided that the amount of such cash dividends or distributions deducted pursuant to this clause (xiii) in any Test Period shall not exceed such third party's *pro rata* share of the Consolidated EBITDA (to the extent positive) of such non-wholly owned Restricted Subsidiary for such Test Period,

(xiv) letter of credit fees,

(xv) the amount of fees, indemnifications and reimbursement of expenses of directors of any Company Party,

(xvi) any Equity Funded Employee Plan Costs,

(xvii) any net loss from disposed, abandoned or discontinued operations or product lines,

(xviii) [reserved],

(xix) earn-out and contingent consideration obligations (including to the extent accounted for as bonuses or otherwise) and adjustments thereof and purchase price adjustments, in any case in connection with any acquisition or other Investment, and

(xx) any costs or expenses incurred relating to environmental remediation, litigation or other disputes in respect of events and exposures that occurred prior to the Closing Date;

*minus* (b) without duplication and to the extent included in arriving at such Consolidated Net Income, (i) non-cash gains (excluding any non-cash gain to the extent it represents the reversal of an accrual or reserve for a potential cash item that reduced Consolidated EBITDA in any prior period), (ii) any net gain from disposed, abandoned or discontinued operations or product lines and (iii) the amount of any minority interest income consisting of Restricted Subsidiary losses attributable to minority interests or non-controlling interests of third parties in any non-wholly owned Restricted Subsidiary; provided that:

(A) to the extent included in Consolidated Net Income, there shall be excluded in determining Consolidated EBITDA (x) currency translation gains and losses related to currency remeasurements of Indebtedness (including the net loss or gain (i) resulting from Swap Contracts for currency exchange risk and (ii) resulting from intercompany indebtedness) and (y) all other foreign currency translation gains or losses to the extent such gains or losses are non-cash items;

(B) to the extent included in Consolidated Net Income, there shall be excluded in determining Consolidated EBITDA for any period any adjustments resulting from the application of the Financial Accounting Standards Board's Accounting Standards Codification 815 and the International Accounting Standard Board's IAS 39 and their respective related pronouncements and interpretations; and

(C) to the extent included in Consolidated Net Income, there shall be excluded in determining Consolidated EBITDA for any period any income (loss) for such period attributable to the early extinguishment of (i) Indebtedness, (ii) obligations under any Swap Contracts or (iii) other derivative instruments.

Notwithstanding anything to the contrary contained herein, for purposes of determining Consolidated EBITDA under this Agreement for any period that includes any of the fiscal quarters ended June 30, 2015, September 30, 2015, December 31, 2015, and March 31, 2016, at the Borrower's option, Consolidated EBITDA for such fiscal quarters shall be deemed to be \$30,648,000, \$33,943,000, \$33,463,000 and \$28,024,000, respectively, in each case as may be subject to addbacks and adjustments (without duplication) pursuant to clause (vii)(B) above and Section 1.09(c) for the applicable Test Period. For the avoidance of doubt, Consolidated EBITDA shall be calculated, including *pro forma* adjustments, in accordance with Section 1.09.

**"Consolidated First Lien Net Debt"** means, as of any date of determination, any Indebtedness described in clause (a) of the definition of "Consolidated Total Net Debt" outstanding on such date that is secured by a Lien on any asset or property of Parent or any Restricted Subsidiary but excluding any such Indebtedness in which the applicable Liens are expressly subordinated or junior to the Liens securing the First Lien Obligations (other than in accordance with the First Lien Parity Intercreditor Agreement) *minus*

the aggregate amount of cash and Cash Equivalents (other than Restricted Cash) included on the consolidated balance sheet of Parent and the Restricted Subsidiaries as of such date, free and clear of all Liens (other than Liens permitted by Section 7.01); provided that Consolidated First Lien Net Debt shall not include Indebtedness in respect of letters of credit, except to the extent of unreimbursed amounts thereunder; provided that any unreimbursed amount under commercial letters of credit shall not be counted as Consolidated First Lien Net Debt until three Business Days after such amount is drawn. For the avoidance of doubt, it is understood that obligations (i) under Swap Contracts and Treasury Services Agreements (as defined in the First Lien Credit Agreement) and (ii) owed by Unrestricted Subsidiaries, do not constitute Consolidated First Lien Net Debt.

**“Consolidated First Lien Net Leverage Ratio”** means, with respect to any Test Period, the ratio of (a) Consolidated First Lien Net Debt as of the last day of such Test Period to (b) Consolidated EBITDA for such Test Period.

**“Consolidated Net Income”** means, for any period, the net income (loss) of Parent and the Restricted Subsidiaries for such period determined on a consolidated basis in accordance with GAAP; provided, however, that, without duplication,

(a) any after-tax effect of extraordinary items (including gains or losses and all fees and expenses relating thereto) for such period shall be excluded,

(b) the cumulative effect of a change in accounting principles during such period to the extent included in Consolidated Net Income shall be excluded,

(c) accruals and reserves that are established or adjusted within 12 months after the Closing Date that are so required to be established or adjusted as a result of the Transactions (or within 12 months after the closing of any acquisition that are so required to be established or adjusted as a result of such acquisition) in accordance with GAAP or changes as a result of adoption or modification of accounting policies in accordance with GAAP shall be excluded,

(d) any net after-tax effect of gains or losses (less all fees, expenses and charges relating thereto) attributable to asset dispositions or abandonments or the sale or other disposition of any Equity Interests of any Person, in each case other than in the ordinary course of business, as determined in good faith by Parent, shall be excluded,

(e) the net income (loss) for such period of any Person that is not a Subsidiary of Parent, or is an Unrestricted Subsidiary, or that is accounted for by the equity method of accounting, shall be excluded; provided that (x) Consolidated Net Income of Parent shall be increased by the amount of dividends or distributions or other payments that are actually paid in cash or Cash Equivalents (or to the extent subsequently converted into cash or Cash Equivalents) to Parent or a Restricted Subsidiary thereof in respect of such period (except to the extent relating to amounts certified by Parent pursuant to the following clause (y)), and (y) at the option of Parent and without duplication of the foregoing clause (x), solely while MTN or JV Holdings is a Restricted Subsidiary and a member of WMS and WMS is not a direct or indirect Subsidiary of Parent, Consolidated Net Income of Parent for any fiscal quarter of Parent shall be increased by the amount of distributions determined in good faith by Parent as being available to be paid from WMS to JV Holdings in respect of such fiscal quarter pursuant to section 5.2.2 of the WMS LLC Agreement but not actually paid to JV Holdings during such fiscal quarter,

(f) any impairment charge or asset write-off or write-down, including impairment charges or asset write-offs or write-downs related to intangible assets, long-lived assets,

investments in debt and equity securities or as a result of a change in law or regulation, in each case, pursuant to GAAP, and the amortization of intangibles arising pursuant to GAAP shall be excluded,

(g) any non-cash compensation charge or expense, including any such charge or expense arising from the grants of stock appreciation or similar rights, stock options, restricted stock or other rights or equity incentive programs or any other equity-based compensation shall be excluded, and any cash charges associated with the rollover, acceleration or payout of Equity Interests by management of the Borrower or any of its direct or indirect parents in connection with the Transactions, shall be excluded,

(h) any expenses, charges or losses that are covered by indemnification or other reimbursement provisions in connection with any Investment, Permitted Acquisition or any sale, conveyance, transfer or other disposition of assets permitted under this Agreement, to the extent actually reimbursed, or, so long as Parent has made a determination that a reasonable basis exists for indemnification or reimbursement and only to the extent that such amount is (A) not denied by the applicable indemnitor in writing within 180 days of the occurrence of such event and (B) in fact indemnified or reimbursed within 365 days of such determination (with a deduction in the applicable future period for any amount so added back to the extent not so indemnified or reimbursed within such 365-day period), shall be excluded,

(i) to the extent covered by insurance and actually reimbursed, or, so long as Parent has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount (A) is not denied by the applicable carrier in writing within 180 days of the occurrence of such event and (B) is in fact reimbursed within 365 days of the date of such determination (with a deduction in the applicable future period for any amount so added back to the extent not so reimbursed within such 365 days), expenses, charges or losses with respect to liability or casualty events or business interruption shall be excluded,

(j) the income (or loss) of any Person accrued prior to the date it becomes a Restricted Subsidiary of Parent or is merged into or consolidated with Parent or any of its Subsidiaries or such Person's assets are acquired by Parent or any of its Restricted Subsidiaries shall be excluded (except to the extent required for any calculation of Consolidated EBITDA on a Pro Forma Basis in accordance with Section 1.09),

(k) solely for the purpose of determining the Cumulative Credit pursuant to clause (b) of the definition thereof, the income of any Restricted Subsidiary of Parent that is not a Guarantor to the extent that the declaration or payment of dividends or similar distributions by such Restricted Subsidiary of such income is not at the time permitted by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to such Restricted Subsidiary (which has not been waived) shall be excluded, except (solely to the extent permitted to be paid) to the extent of the amount of dividends or other distributions actually paid to Parent or any of its Restricted Subsidiaries that are Guarantors by such Person during such period in accordance with such documents and regulations, and

(l) the Consolidated Net Income of Parent shall be reduced by the applicable CNI True-Up Amount (if any).

There shall be excluded from Consolidated Net Income for any period the purchase accounting effects of adjustments in component amounts required or permitted by GAAP (including in the inventory, property and equipment, software, goodwill, intangible assets, in-process research and development, deferred revenue and debt line items thereof) and related authoritative pronouncements (including the effects of such adjustments pushed down to Parent and the Restricted Subsidiaries), as a result of the Transactions, the Amendment Transactions, any acquisition constituting an Investment permitted under this Agreement consummated prior to or after the Closing Date, or the amortization or write-off of any amounts thereof. For the avoidance of doubt, Consolidated Net Income shall be calculated, including *pro forma* adjustments, in accordance with Section 1.09.

**“Consolidated Senior Secured Net Debt”** means, as of any date of determination, any Indebtedness described in clause (a) of the definition of “Consolidated Total Net Debt” outstanding on such date that is secured by a Lien on any asset or property of Parent or any Restricted Subsidiary *minus* the aggregate amount of cash and Cash Equivalents (other than Restricted Cash) included on the consolidated balance sheet of Parent and the Restricted Subsidiaries as of such date, free and clear of all Liens (other than Liens permitted by Section 7.01); provided that Consolidated Senior Secured Net Debt shall not include Indebtedness in respect of letters of credit, except to the extent of unreimbursed amounts thereunder; provided that any unreimbursed amount under commercial letters of credit shall not be counted as Consolidated Senior Secured Net Debt until three Business Days after such amount is drawn. For the avoidance of doubt, it is understood that obligations (i) under Swap Contracts and Treasury Services Agreements (as defined in the First Lien Credit Agreement) and (ii) owed by Unrestricted Subsidiaries, do not constitute Consolidated Senior Secured Net Debt.

**“Consolidated Senior Secured Net Leverage Ratio”** means, with respect to any Test Period, the ratio of (a) Consolidated Senior Secured Net Debt as of the last day of such Test Period to (b) Consolidated EBITDA for such Test Period.

**“Consolidated Total Net Debt”** means, as of any date of determination, (a) the aggregate principal amount of Indebtedness of Parent and its Restricted Subsidiaries outstanding on such date, in an amount that would be reflected on a balance sheet prepared as of such date on a consolidated basis in accordance with GAAP (but excluding the effects of any discounting of Indebtedness resulting from the application of purchase accounting in connection with the Transactions or any acquisition constituting an Investment permitted under this Agreement) consisting of Indebtedness for borrowed money, purchase money debt and Attributable Indebtedness *minus* (b) the aggregate amount of cash and Cash Equivalents (other than Restricted Cash) included on the consolidated balance sheet of Parent and its Restricted Subsidiaries as of such date, free and clear of all Liens (other than Liens permitted by Section 7.01); provided that Consolidated Total Net Debt shall not include Indebtedness in respect of letters of credit, except to the extent of unreimbursed amounts thereunder; provided that any unreimbursed amount under commercial letters of credit shall not be counted as Consolidated Total Net Debt until three Business Days after such amount is drawn. For the avoidance of doubt, it is understood that obligations (i) under Swap Contracts and Treasury Services Agreements (as defined in the First Lien Credit Agreement) and (ii) owed by Unrestricted Subsidiaries, do not constitute Consolidated Total Net Debt.

**“Consolidated Total Net Leverage Ratio”** means, with respect to any Test Period, the ratio of (a) Consolidated Total Net Debt as of the last day of such Test Period to (b) Consolidated EBITDA as of the last day for such Test Period.

**“Consolidated Working Capital”** means, with respect to Parent and its Restricted Subsidiaries on a consolidated basis at any date of determination, Current Assets at such date of determination *minus* Current Liabilities at such date of determination; provided that increases or decreases in Consolidated Working Capital shall be calculated without regard to any changes in Current Assets or Current Liabilities

as a result of (a) any reclassification in accordance with GAAP of assets or liabilities, as applicable, between current and noncurrent, (b) the effects of purchase accounting, (c) the effect of fluctuations in the amount of accrued or contingent obligations, assets or liabilities under Swap Contracts or (d) appreciation of the Dollar relative to other currencies.

“**Contract Consideration**” has the meaning set forth in the definition of “Excess Cash Flow.”

“**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.

“**Contribution Indebtedness**” has the meaning set forth in Section 7.03(x).

“**Control**” has the meaning set forth in the definition of “Affiliate.”

“**Controlled Investment Affiliate**” shall mean, as to any Person, any other Person which (i) directly or indirectly is in Control of, is Controlled by, or is under common Control with, such Person and is organized by such Person (or any Person Controlling such Person) primarily for making equity or debt investments in Parent or other portfolio companies or (ii) is obligated pursuant to a commitment agreement to invest its capital as directed by such Person.

“**Convertible Notes**” means the 2.75% convertible senior unsecured convertible notes due 2035 issued by Parent pursuant to the Convertible Notes Indenture.

“**Convertible Notes Indenture**” means the Indenture dated as of February 18, 2015, between Parent and U.S. Bank National Association, as trustee and any Permitted Refinancing thereof.

“**Credit Agreement Refinancing Indebtedness**” means (a) Permitted Second Priority Refinancing Debt, (b) Permitted Junior Priority Refinancing Debt, (c) Permitted Unsecured Refinancing Debt or (d) other Indebtedness incurred pursuant to a Refinancing Amendment, in each case, issued, incurred or otherwise obtained (including by means of the extension or renewal of existing Indebtedness) in exchange for, or to extend, renew, replace, repurchase, retire or refinance, in whole or part, any Class of existing Term Loans, or any then-existing Credit Agreement Refinancing Indebtedness (the “**Refinanced Debt**”); provided that (i) such Indebtedness has a maturity no earlier, and a Weighted Average Life to Maturity equal to or greater, than the Refinanced Debt, (ii) such Indebtedness shall not have a greater principal amount than the principal amount (or accreted value, if applicable) of the Refinanced Debt *plus* accrued interest, fees, premiums (if any) and penalties thereon and fees and expenses associated with the refinancing, *plus* an amount equal to any existing commitments unutilized thereunder, (iii) the covenants and events of default of such Indebtedness are, taken as a whole, not materially more favorable to the investors providing such Indebtedness than those contained in the documentation governing the Refinanced Debt (except for (x) covenants or other provisions applicable only to periods after the Maturity Date of the applicable Facility existing at the time of incurrence of such Credit Agreement Refinancing Indebtedness and (y) any financial maintenance covenant to the extent such covenant is also added for the benefit of the lenders under the Refinanced Debt) or otherwise reflect market terms and conditions (as reasonably determined by Parent) at the time of incurrence or issuance of such Credit Agreement Refinancing Indebtedness, (iv) the Effective Yield with respect such Credit Agreement Refinancing Indebtedness shall be determined by Parent and the lenders providing such Credit Agreement Refinancing Indebtedness, (v) such Refinanced Debt shall be repaid, repurchased, retired, defeased or satisfied and discharged, and all accrued interest, fees, premiums (if any) and penalties in connection therewith shall be paid, on the date such Credit Agreement Refinancing Indebtedness is issued, incurred or obtained, (vi) such Indebtedness is not at any time guaranteed by any Subsidiary other

than Guarantors, (vii) to the extent secured, such Indebtedness is not secured by property other than the Collateral, (viii) if the Refinanced Debt is subordinated in right of payment to, or to the Liens securing, the Obligations, then any Credit Agreement Refinancing Indebtedness shall be subordinated in right of payment to, or to the Liens securing, the Obligations, as applicable, on terms (a) at least as favorable (taken as a whole) (as reasonably determined by Parent) to the Lenders as those contained in the documentation governing the Refinanced Debt or (b) otherwise reasonably acceptable to the Administrative Agent, (ix) any Credit Agreement Refinancing Indebtedness shall be *pari passu* or junior in right of payment and, if secured, secured on a *pari passu* or junior basis, with respect to security, with respect to the Term Facility, to the extent outstanding, (x) if such Credit Agreement Refinancing Indebtedness is secured, the requirements in the proviso at the end of Section 7.03 have been satisfied, and (xi) no Credit Agreement Refinancing Indebtedness that is a Term Loan shall be mandatorily prepaid prior to repayment in full of (or, if junior in right of payment or as to security, on a junior basis with respect to) the Initial Term Loans unless, solely in the case such Credit Agreement Refinancing Indebtedness is *pari passu* in right of payment and security with the Initial Term Loans, accompanied by at least a ratable payment of the Initial Term Loans, and any such Credit Agreement Refinancing Indebtedness that is *pari passu* in right of payment and security with the Initial Term Loans may participate on *apro rata* basis or on less than a *pro rata* basis (but not greater than *pro rata* basis) in any mandatory prepayments hereunder.

“**Cumulative Credit**” means, at any date, an amount, not less than zero in the aggregate, determined on a cumulative basis equal to, without duplication:

(a) \$25,000,000, *plus*

(b) the Cumulative Retained Excess Cash Flow Amount at such time, *plus*

(c) (i) the cumulative amount of cash and Cash Equivalent proceeds from the sale or issuance of Qualified Equity Interests of Parent or Equity Interests of any direct or indirect parent of Parent after the Amendment No. 1 Effective Date to a Person other than a Loan Party or a Restricted Subsidiary and on or prior to such time (including upon exercise of warrants or options) (other than Excluded Contributions or any amount designated as a Cure Amount or used for Equity Funded Employee Plan Costs) which proceeds have been contributed as common equity to the capital of Parent and (ii) the Qualified Equity Interests of Parent (or Equity Interests of any direct or indirect parent of Parent) (other than Excluded Contributions or any amount designated as a Cure Amount or used for Equity Funded Employee Plan Costs) issued upon conversion of Indebtedness or Disqualified Equity Interests of Parent or any Restricted Subsidiary of Parent owed to a Person other than a Loan Party or a Restricted Subsidiary of a Loan Party not previously applied for a purpose (including a Cure Amount) other than use in the Cumulative Credit, *plus*

(d) 100% of the fair market value (as reasonably determined by Parent) of marketable securities or other property received by Parent or a Restricted Subsidiary from any Person other than a Loan Party or a Restricted Subsidiary contributed to the common capital of Parent or in exchange for, or for the net cash proceeds of the issuance of Qualified Equity Interests of Parent (or any direct or indirect parent) contributed to the common capital of Parent, received after the Closing Date (other than Excluded Contributions or any amount designated as a Cure Amount or used for Equity Funded Employee Plan Costs), *plus*

(e) 100% of the aggregate amount received by Parent or any Restricted Subsidiary of Parent in cash and Cash Equivalents from:

(i) the sale, transfer or other disposition (other than to Parent or any such Restricted Subsidiary) of the Equity Interests of an Unrestricted Subsidiary or any minority Investments, or

(ii) any dividend or other distribution by an Unrestricted Subsidiary or received in respect of minority Investments, or

(iii) any interest, returns of principal, repayments and similar payments by such Unrestricted Subsidiary or received in respect of any minority Investment,

provided that in the case of clauses (i), (ii) and (iii), in each case, to the extent that the Investment corresponding to the designation of such Subsidiary as an Unrestricted Subsidiary or any subsequent Investment in such Unrestricted Subsidiary or minority Investment, as applicable, was made in reliance on the Cumulative Credit pursuant to Section 7.02(c)(iii)(C)(y) or Section 7.02(n)(y), provided, further, that no increase in the Cumulative Credit pursuant to this clause (e) shall result in a duplicative increase in any applicable Investment basket in Section 7.02 by virtue of a Return thereon, *plus*

(f) in the event any Unrestricted Subsidiary has been re-designated as a Restricted Subsidiary or has been merged, consolidated or amalgamated with or into, or transfers or conveys all or substantially all of its assets to, or is liquidated into, Parent or a Restricted Subsidiary, the fair market value of the Investments of Parent and the Restricted Subsidiaries made in such Unrestricted Subsidiary at the time of such redesignation, combination or transfer (or of the assets transferred or conveyed, as applicable), in each case to the extent the original Investment in such Unrestricted Subsidiary was made after the Closing Date pursuant to Section 7.02(c)(iii)(C)(y) or Section 7.02(n)(y), *plus*

(g) [reserved], *plus*

(h) an amount equal to any net after-tax returns in cash and Cash Equivalents (including dividends, interest, distributions, returns of principal, sale proceeds, repayments, income and similar amounts) actually received by any Loan Party in respect of any Investments pursuant to Section 7.02 (other than Sections 7.02(c)(iii)(C)(y) and Section 7.02(n)(y)); provided that no increase in the Cumulative Credit pursuant to this clause (h) shall result in a duplicative increase in any applicable Investment basket in Section 7.02 by virtue of a Return thereon, *plus*

(i) to the extent not required to prepay Loans in accordance with Section 2.05(b), the aggregate amount of all Net Proceeds actually received by Parent or any Restricted Subsidiary in connection with the sale, transfer or other disposition of any assets of any Unrestricted Subsidiary since the Closing Date, *plus*

(j) [reserved], *plus*

(k) to the extent not otherwise required to pay down the Term Loans, an amount equal to Declined Proceeds, *minus*

(l) any amount of the Cumulative Credit used to make Investments pursuant to Section 7.02(c)(iii)(C)(y) or Section 7.02(n)(y) after the Closing Date and prior to such time, *minus*

(m) any amount of the Cumulative Credit used to pay dividends or make distributions or other Restricted Payments pursuant to Section 7.06(f)(A) or 7.06(g) after the Closing Date and prior to such time, *minus*

(n) any amount of the Cumulative Credit used to make payments or distributions in respect of Junior Financings pursuant to Section 7.13 after the Closing Date and prior to such time.

“**Cumulative Retained Excess Cash Flow Amount**” means, at any date, an amount, not less than zero in the aggregate, determined on a cumulative basis equal to the aggregate cumulative sum of the Retained Percentage of Excess Cash Flow for all Excess Cash Flow Periods ending after the Closing Date and prior to such date.

“**Cure Amount**” has the meaning set forth in Section 8.04(a).

“**Cure Expiration Date**” has the meaning set forth in Section 8.04(a).

“**Current Assets**” means, with respect to Parent and its Restricted Subsidiaries on a consolidated basis at any date of determination, all assets (other than cash and Cash Equivalents) that would, in accordance with GAAP, be classified on a consolidated balance sheet of Parent and its Restricted Subsidiaries as current assets at such date of determination, other than amounts related to current or deferred Taxes based on income or profits (but excluding assets held for sale, loans (permitted) to third parties, pension assets, deferred bank fees and derivative financial instruments).

“**Current Liabilities**” means, with respect to Parent and its Restricted Subsidiaries on a consolidated basis at any date of determination, all liabilities that would, in accordance with GAAP, be classified on a consolidated balance sheet of Parent and its Restricted Subsidiaries as current liabilities at such date of determination, other than (a) the current portion of any Indebtedness, (b) the current portion of interest expense, (c) accruals for current or deferred Taxes based on income or profits, (d) accruals of any costs or expenses related to restructuring reserves, (e) deferred revenue, (f) any Revolving Credit Exposure or Revolving Credit Loans and (g) the current portion of pension liabilities.

“**Debt Fund Affiliate**” means any Affiliate of Holdings or the Sponsor (other than a natural person) that is primarily engaged in, or advises funds or other investment vehicles that are engaged in, making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course.

“**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.

“**Declined Proceeds**” (a) prior to the Discharge of the First Lien Secured Obligations, has the meaning assigned to such term in the First Lien Credit Agreement or other applicable First Lien Loan Document, and (b) thereafter, has the meaning set forth in Section 2.05(b)(viii).

“**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, without cure or waiver hereunder, would be an Event of Default.

**“Default Rate”** means an interest rate equal to (a) the Base Rate *plus* (b) the Applicable Rate, if any, applicable to Base Rate Loans *plus* (c) 2.0% per annum; provided that with respect to a Eurocurrency 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* 2.0% per annum, in each case, to the fullest extent permitted by applicable Laws.

**“Defaulting Lender”** means any Lender whose acts or failure to act, whether directly or indirectly, cause it to meet any part of the definition of Lender Default.

**“Designated First Lien Representative”** means the “Designated First Lien Representative” as defined in the Closing Date Intercreditor Agreement.

**“Discharge of First Lien Credit Agreement Obligations”** means the “Discharge of First Lien Credit Agreement Obligations” as defined in the Closing Date Intercreditor Agreement.

**“Discharge of First Lien Secured Obligations”** means the “Discharge” of “First Lien Secured Obligations”, each as defined in the Closing Date Intercreditor Agreement.

**“Discount Prepayment Accepting Lender”** has the meaning set forth in Section 2.05(a)(v)(B)(2).

**“Discount Range”** has the meaning set forth in Section 2.05(a)(v)(C)(1).

**“Discount Range Prepayment Amount”** has the meaning set forth in Section 2.05(a)(v)(C)(1).

**“Discount Range Prepayment Notice”** means a written notice of a Borrower Solicitation of Discount Range Prepayment Offers made pursuant to Section 2.05(a)(v)(C) substantially in the form of Exhibit E-4.

**“Discount Range Prepayment Offer”** means the irrevocable written offer by a Lender, substantially in the form of Exhibit E-5, submitted in response to an invitation to submit offers following the Auction Agent’s receipt of a Discount Range Prepayment Notice.

**“Discount Range Prepayment Response Date”** has the meaning set forth in Section 2.05(a)(v)(C)(1).

**“Discount Range Proration”** has the meaning set forth in Section 2.05(a)(v)(C)(3).

**“Discounted Prepayment Determination Date”** has the meaning set forth in Section 2.05(a)(v)(D)(3).

**“Discounted Prepayment Effective Date”** means in the case of a Borrower Offer of Specified Discount Prepayment, Borrower Solicitation of Discount Range Prepayment Offer or Borrower Solicitation of Discounted Prepayment Offer, five Business Days following the Specified Discount Prepayment Response Date, the Discount Range Prepayment Response Date or the Solicited Discounted Prepayment Response Date, as applicable, in accordance with Section 2.05(a)(v)(B)(1), 2.05(a)(v)(C)(1) or 2.05(a)(v)(D)(1), respectively, unless a shorter period is agreed to between the Borrower and the Auction Agent.

**“Discounted Term Loan Prepayment”** has the meaning set forth in Section 2.05(a)(v)(A).

**“Disposition”** or **“Dispose”** means the sale, transfer, license, lease or other disposition (including any sale and leaseback transaction and any sale or issuance of Equity Interests (other than directors’ qualifying shares or other shares required by applicable Law) in a Restricted Subsidiary) of any property by any Person, 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 that, 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 (i) solely for Qualified Equity Interests and cash in lieu of fractional shares or (ii) solely at the discretion of the issuer), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control, asset sale or similar event so long as any rights of the holders thereof upon the occurrence of a change of control, asset sale or similar 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), (b) is redeemable at the option of the holder thereof (other than (i) solely for Qualified Equity Interests and cash in lieu of fractional shares or (ii) as a result of a change of control, asset sale or similar event so long as any rights of the holders thereof upon the occurrence of a change of control, asset sale or similar 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), 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, prior to the date that is 91 days after the Latest Maturity Date at the time of issuance of such Equity Interests; provided that if such Equity Interests are issued pursuant to a plan for the benefit of employees of Holdings (or any direct or indirect parent thereof), Parent or the Restricted Subsidiaries or by any such plan to such employees, such Equity Interests shall not constitute Disqualified Equity Interests solely because it may be required to be repurchased by Parent or its Restricted Subsidiaries in order to satisfy applicable statutory or regulatory obligations.

**“Disqualified Institution”** means such Persons who are competitors of Parent and its Subsidiaries that are separately identified in writing by Parent to the Administrative Agent from time to time and any of their Affiliates (other than any such Affiliate that is affiliated with a financial investor in such Person and that is not itself an operating company or otherwise an Affiliate of an operating company so long as such Affiliate is a bona fide Fund) that are either (a) identified in writing by Parent or the Sponsor to the Administrative Agent from time to time or (b) clearly identifiable on the basis of such Affiliate’s name.

**“Distressed Person”** has the meaning set forth in the definition of “Lender-Related Distress Event.”

**“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.

**“EEA Financial Institution”** means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent;

“**EEA Member Country**” means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

“**EEA Resolution Authority**” means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegatee) having responsibility for the resolution of any EEA Financial Institution.

“**Effective Yield**” shall mean, as to any Indebtedness, the effective yield on such Indebtedness in the reasonable determination of the Administrative Agent in consultation with the Borrower and consistent with generally accepted financial practices, taking into account the applicable interest rate margins, any interest rate floors (the effect of which floors shall be determined in a manner set forth in the proviso below), or similar devices and all fees, including upfront or similar fees or original issue discount (amortized over the shorter of (i) the remaining weighted average life to maturity of such Indebtedness and (ii) the four years following the date of incurrence thereof) payable generally to Lenders or other institutions providing such Indebtedness, but excluding any arrangement, structuring, ticking, or other similar fees payable in connection therewith that are not generally shared with the relevant Lenders and, if applicable, consent fees for an amendment paid generally to consenting Lenders; provided that with respect to any Indebtedness that includes a “LIBOR floor” or “Base Rate floor,” (a) to the extent that the Eurocurrency Rate or Base Rate (without giving effect to any floors in such definitions), as applicable, on the date that the Effective Yield is being calculated is less than such floor, the amount of such difference shall be deemed added to the interest rate margin for such Indebtedness for the purpose of calculating the Effective Yield and (b) to the extent that the Eurocurrency Rate or Base Rate (without giving effect to any floors in such definitions), as applicable, on the date that the Effective Yield is being calculated is greater than such floor, then the floor shall be disregarded in calculating the Effective Yield.

“**Eligible Assignee**” has the meaning set forth in Section 10.07(a)(i).

“**Embargoed Person**” has the meaning set forth in Section 6.21(c).

“**EMC Intermediate**” means EMC Intermediate, LLC, a Delaware limited liability company and direct parent of Holdings.

“**EMC Parent**” means EMC Acquisition Holdings, LLC, a Delaware limited liability company.

“**EMC Parent Preferred Units**” means units of preferred membership interests, \$100 original issue price per unit, in EMC Parent issued on the Closing Date.

“**Enforcement Qualifications**” has the meaning set forth in Section 5.04.

“**Environment**” means indoor air, ambient air, surface water, groundwater, drinking water, land surface, subsurface strata, and natural resources such as wetlands, flora and fauna.

“**Environmental Laws**” means any applicable Law relating to the prevention of pollution or the protection of the Environment and natural resources, and the protection of human health and safety as it relates to the Environment.

“**Environmental Liability**” means any liability, contingent or otherwise (including any liability for damages, costs of investigation and remediation, fines, penalties or indemnities), of the Loan Parties or any Restricted Subsidiary resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage or treatment of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the Release or threatened Release of any Hazardous Materials or (e) any

contract, agreement or other consensual arrangement to the extent 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 Funded Employee Plan Costs”** means cash costs or expenses, incurred pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement, to the extent funded with cash proceeds contributed to the capital of Parent or net cash proceeds of an issuance of Qualified Equity Interests of Parent or Equity Interests of any direct or indirect parent of Parent (other than amounts designated as Excluded Contributions, any amount designated as a Cure Amount or any amount used in the Cumulative Credit or to incur Contribution Indebtedness).

**“Equity Interests”** means, with respect to any Person, all of the shares, interests, rights, participations or other equivalents (however designated) of capital stock of (or other ownership or profit interests or units in) such Person and all of the warrants, options or other rights for the purchase, acquisition or exchange from such Person of any of the foregoing (including through convertible securities); provided that any instrument evidencing Indebtedness convertible or exchangeable for Equity Interests shall not be deemed to be Equity Interests unless and until such instrument is so converted or exchanged.

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

**“ERISA Affiliate”** means any trade or business (whether or not incorporated) that is under common control with a Loan Party or any Restricted Subsidiary within the meaning of Section 414(b) or (c) of the Code or Section 4001 of ERISA (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code or Section 302 of ERISA).

**“ERISA Event”** means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by a Loan Party, any Restricted Subsidiary or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by a Loan Party, any Restricted Subsidiary or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization (within the meaning of Section 4241 of ERISA) or insolvent (within the meaning of Section 4245 of ERISA) or in “endangered” or “critical” status (within the meaning of Section 432 of the Code or Section 305 of ERISA); (d) a determination that any Pension Plan is in “at risk” status (within the meaning of Section 430 of the Code or Section 303 of ERISA); (e) the filing of a notice of intent to terminate, the treatment of a Pension Plan or Multiemployer Plan amendment as a termination under Sections 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (f) an event or condition which constitutes grounds under Section 4042 of ERISA for, and that could reasonably be expected to result in, the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; (g) with respect to a Pension Plan, the failure to satisfy the minimum funding standard of Section 412 of the Code or Section 302 of ERISA, whether or not waived; (h) a failure by a Loan Party, any Restricted Subsidiary or any ERISA Affiliate to make a required contribution to a Multiemployer Plan; (i) the occurrence of a nonexempt prohibited transaction (within the meaning of Section 4975 of the Code or Section 406 of ERISA) which could reasonably be expected to result in liability to a Loan Party or any Restricted Subsidiary; or (j) 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 a Loan Party, any Restricted Subsidiary or any ERISA Affiliate.

“**EU Bail-In Legislation Schedule**” means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

“**Euro**”, “**EUR**” and “**€**” mean the lawful currency of the Participating Member States introduced in accordance with the EMU Legislation.

“**Eurocurrency Rate**” means:

(a) for any Interest Period with respect to a Eurocurrency Rate Loan, the rate per annum determined by the Administrative Agent at approximately 11:00 a.m. (London time) on the date that is two Business Days prior to the commencement of such Interest Period by reference to the interest settlement rates for deposits in Dollars (as published by Reuters on page LIBOR01 of the Reuters Screen (or another commercially available source providing quotations of such rate as designated by the Administrative Agent from time to time)) (as set forth by (i) the Intercontinental Exchange Group, (ii) any publicly available successor service or entity that has been authorized by the U.K. Financial Conduct Authority to administer the London Interbank Offered Rate or (iii) any publicly available service selected by the Administrative Agent that has been nominated by such an entity as an authorized information vendor for the purpose of displaying such rates) for a period equal to such Interest Period; provided that, to the extent that an interest rate is not ascertainable pursuant to the foregoing provisions of this definition, the “Eurocurrency Rate” shall be the interest rate per annum determined by the Administrative Agent in consultation with the Borrower, and

(b) for any interest calculation with respect to a Base Rate Loan on any date, the rate per annum determined by the Administrative Agent at approximately 11:00 a.m. (London time) on such date by reference to the interest settlement rates for deposits in Dollars (as published by Reuters on page LIBOR01 of the Reuters Screen (or another commercially available source providing quotations of such rate as designated by the Administrative Agent from time to time)) with a term of one month (as set forth by (i) the InterContinental Exchange Group, (ii) any publicly available successor service or entity that has been authorized by the U.K. Financial Conduct Authority to administer the London Interbank Offered Rate or (iii) any publicly available service selected by the Administrative Agent that has been nominated by such an entity as an authorized information vendor for the purpose of displaying such rates);

in the case of clauses (a) and (b) above, multiplied by Statutory Reserves; provided that (i) in the case of clauses (a) and (b) above, the Eurocurrency Rate with respect to Initial Term Loans, shall not be less than 1.00% per annum and (ii) in no event shall the Eurocurrency Rate be less than zero.

“**Eurocurrency Rate Loan**” means a Loan that bears interest at a rate based on clause (a) of the definition of “Eurocurrency Rate.”

“**Event of Default**” has the meaning set forth in Section 8.01.

“**Excess Cash Flow**” means, for any period, an amount equal to:

- (a) the sum, without duplication, of:
  - (i) Consolidated Net Income for such period,

(ii) an amount equal to the amount of all non-cash charges (including depreciation and amortization) to the extent deducted in arriving at such Consolidated Net Income,

(iii) decreases in Consolidated Working Capital for such period (other than any such decreases arising from acquisitions or dispositions (outside of the ordinary course of business) by Parent and its Restricted Subsidiaries completed during such period),

(iv) an amount equal to the aggregate net non-cash loss on Dispositions by Parent and its Restricted Subsidiaries during such period (other than sales in the ordinary course of business) to the extent deducted in arriving at such Consolidated Net Income,

(v) expenses deducted from Consolidated Net Income during such period in respect of expenditures made during any prior period for which a deduction from Excess Cash Flow was made in such period pursuant to clause (b)(xi), (xii), (xiii), (xv) or (xvi) below, and

(vi) cash income or gain (actually received in cash) excluded from the calculation of Consolidated Net Income for such period pursuant to the definition thereof, *minus*

(b) the sum, without duplication, of:

(i) an amount equal to the amount of all non-cash credits included in arriving at such Consolidated Net Income, and cash charges included in clauses (a) through (k) of the definition of "Consolidated Net Income",

(ii) without duplication of amounts deducted pursuant to clause (xi) below in prior fiscal years, the amount of Capital Expenditures or acquisitions of intellectual property or Capitalized Software Expenditures to the extent not expensed or accrued during such period and made in cash during such period, except to the extent that such Capital Expenditures or acquisitions were financed with the proceeds of the incurrence of Indebtedness (other than Revolving Credit Loans or extensions of credit under any revolving credit facility or similar facility or other short term Indebtedness) by such Person or any of its Restricted Subsidiaries,

(iii) the aggregate amount of all principal payments of Indebtedness of Parent or its Restricted Subsidiaries, except to the extent financed with the proceeds of the incurrence of Indebtedness (other than Revolving Credit Loans or extensions of credit under any revolving credit facility or similar facility or other short term Indebtedness) by such Person or any of its Restricted Subsidiaries (including (A) the principal component of payments in respect of Capitalized Leases and (B) the amount of any scheduled repayment of Extended Term Loans, Refinancing Term Loans, Incremental Term Loans, Replacement Term Loans or Incremental Equivalent Debt and any mandatory prepayment of Term Loans pursuant to Section 2.05(b)(ii) to the extent required due to a Disposition that resulted in an increase to Consolidated Net Income and not in excess of the amount of such increase but excluding (X) all other prepayments, buybacks and purchases of Term Loans by the Borrower, Parent or Holdings (but excluding prepayments referred to in clause (B) above) and (Y) all prepayments of Revolving Credit Loans, Extended Revolving Credit Loans, Refinancing Revolving Credit Loans

and Incremental Revolving Loans) and all prepayments in respect of any other revolving credit facility, except to the extent there is an equivalent permanent reduction in commitments thereunder,

(iv) an amount equal to the aggregate net non-cash gain on Dispositions by Parent and its Restricted Subsidiaries during such period (other than Dispositions in the ordinary course of business) to the extent included in arriving at such Consolidated Net Income,

(v) increases in Consolidated Working Capital for such period (other than any such increases arising from acquisitions or dispositions by Parent and its Restricted Subsidiaries during such period),

(vi) cash payments by Parent and its Restricted Subsidiaries during such period in respect of long-term liabilities of Parent and its Restricted Subsidiaries other than Indebtedness to the extent such payments are not expensed during such period or are not deducted in calculating Consolidated Net Income, except to the extent financed with the proceeds of the incurrence of Indebtedness (other than Revolving Credit Loans or extensions of credit under any revolving credit facility or similar facility or other short term Indebtedness) by such Person or any of its Restricted Subsidiaries,

(vii) without duplication of amounts deducted pursuant to clause (xi) below in prior fiscal years, the amount of Investments and acquisitions made in cash during such period pursuant to Section 7.02 (other than Section 7.02(a), (c), (h), (l), (r)(ii), (u) and (w)), except to the extent that such Investments and acquisitions were financed with the proceeds of the incurrence of Indebtedness (other than Revolving Credit Loans or extensions of credit under any revolving credit facility or similar facility or other short term Indebtedness) by such Person or any of its Restricted Subsidiaries,

(viii) the amount of Restricted Payments paid during such period pursuant to Section 7.06(c), (f), (g)(y) (other than with respect to clauses (c) and (d) under the definition of “Cumulative Credit”), (h) (and in the case of clause (iv) thereof, only to the extent the cash payments in respect of such Investment would otherwise have been deducted from Excess Cash Flow pursuant to preceding clause (vii)), (i) and (j)(i) and (k), except to the extent such Restricted Payments were financed with the proceeds of the incurrence of Indebtedness (other than Revolving Credit Loans or extensions of credit under any revolving credit facility or similar facility or other short term Indebtedness) by such Person or any of its Restricted Subsidiaries,

(ix) the aggregate amount of expenditures actually made by Parent and its Restricted Subsidiaries in cash during such period (including expenditures for the payment of financing fees) to the extent that such expenditures are not expensed during such period, except to the extent such expenditures were financed with the proceeds of the incurrence of Indebtedness (other than Revolving Credit Loans or extensions of credit under any revolving credit facility or similar facility or other short term Indebtedness) by such Person or any of its Restricted Subsidiaries,

(x) the aggregate amount of any premium, make-whole or penalty payments actually paid in cash by Parent and its Restricted Subsidiaries during such period that are required to be made in connection with any prepayment of Indebtedness, except to the extent such payments were financed with the proceeds of the incurrence of Indebtedness

(other than Revolving Credit Loans or extensions of credit under any revolving credit facility or similar facility or other short term Indebtedness) by such Person or any of its Restricted Subsidiaries,

(xi) without duplication of amounts deducted from Excess Cash Flow in prior periods, the aggregate consideration required to be paid in cash by Parent and its Restricted Subsidiaries pursuant to binding contracts or executed letters of intent (the “**Contract Consideration**”) entered into prior to or during such period relating to Permitted Acquisitions, Investments (other than Investments made pursuant to Section 7.02(a), (c) or (r)(ii) or (v)), Capital Expenditures, Capitalized Software Expenditures or acquisitions of intellectual property (to the extent not expensed) to be consummated or made, *plus* any restructuring cash expenses, pension payments or tax contingency payments that have been added to Excess Cash Flow pursuant to clause (a)(ii) above required to be made, in each case during the period of four consecutive fiscal quarters of Parent following the end of such period; provided that to the extent the aggregate amount actually utilized to finance such acquisitions, Investments, Capital Expenditures, Capitalized Software Expenditures or acquisitions of intellectual property during such period of four consecutive fiscal quarters (excluding any portion thereof financed with the proceeds of the incurrence of Indebtedness (other than Revolving Credit Loans or extensions of credit under any revolving credit facility or similar facility or other short term Indebtedness)) is less than the Contract Consideration, the amount of such shortfall shall be added to the calculation of Excess Cash Flow at the end of such period of four consecutive fiscal quarters,

(xii) the amount of cash taxes (including penalties and interest or tax reserves) paid in such period to the extent they exceed the amount of tax expense deducted in determining Consolidated Net Income for such period,

(xiii) cash expenditures in respect of Swap Contracts during such period to the extent not deducted in arriving at such Consolidated Net Income,

(xiv) any payment of cash to be amortized or expensed over a future period and recorded as a long-term asset (so long as any such amortization or expense in such future period is added back to Excess Cash Flow in such future period as provided in clause (a)(ii) above),

(xv) reimbursable or insured expenses incurred during such fiscal year to the extent that such reimbursement has not yet been received and to the extent not deducted in arriving at such Consolidated Net Income,

(xvi) the amount of Tax Distributions actually distributed for such period pursuant to Section 7.06(h)(iii), and

(xvii) cash expenditures for costs and expenses in connection with acquisitions or Investments, dispositions and the issuance of equity interests or Indebtedness, except to the extent deducted in arriving at such Consolidated Net Income.

Notwithstanding anything in the definition of any term used in the definition of “Excess Cash Flow” to the contrary, all components of Excess Cash Flow shall be computed for Parent and its Restricted Subsidiaries on a consolidated basis.

**“Excess Cash Flow Period”** means (A) initially, the period from January 1, 2017 to December 31, 2017, and (B) thereafter, each succeeding fiscal year of Parent, but in all cases for purposes of calculating the Cumulative Retained Excess Cash Flow Amount shall only include such fiscal years (or other period) for which financial statements and a Compliance Certificate have been delivered in accordance with Sections 6.01(a) and 6.02(a) and for which any prepayments required by Section 2.05(b)(i) (if any) have been made (it being understood that the Retained Percentage of Excess Cash Flow for any Excess Cash Flow Period shall be included in the Cumulative Retained Excess Cash Flow Amount regardless of whether a prepayment is required by Section 2.05(b)(i)).

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

**“Excluded Assets”** means (i) any fee owned real property (other than Material Real Properties) and any leasehold rights and interests in real property (including landlord waivers, estoppels and collateral access letters), (ii) motor vehicles, airplanes and other assets subject to certificates of title, to the extent a Lien therein cannot be perfected by the filing of a UCC financing statement, (iii) commercial tort claims where the amount of damages claimed by the applicable Loan Party is less than \$2,500,000, (iv) governmental licenses, state or local franchises, charters and authorizations and any other property and assets to the extent that the Administrative Agent may not validly possess a security interest therein under, or such security interest is restricted by, applicable Laws (including, without limitation, rules and regulations of any Governmental Authority or agency) or the pledge or creation of a security interest in which would require governmental consent, approval, license or authorization, other than to the extent such prohibition or limitation is rendered ineffective under the UCC or other applicable Law notwithstanding such prohibition (but excluding proceeds of any such governmental license), (v) any lease, license, permit or agreement to the extent that, and so long as, a grant of a security interest therein (A) is prohibited by applicable Law other than to the extent such prohibition is rendered ineffective under the UCC or other applicable Law notwithstanding such prohibition, (B) to the extent and for so long as it would violate the terms thereof (in each case, after giving effect to the relevant provisions of the UCC or other applicable Laws) or would give rise to a termination right thereunder in favor of a party thereto other than the Borrower or a Guarantor (except to the extent such provision is overridden by the UCC or other applicable Laws), in each case, other than the proceeds thereof and (a) excluding any such agreement that relates to Credit Agreement Refinancing Indebtedness or Permitted Ratio Debt and (b) only to the extent that and for so long as such limitation on such pledge or security interest is otherwise permitted under Section 7.09, or (C) would result in material adverse tax consequences as reasonably determined by Parent in consultation with the Administrative Agent, (vi) Margin Stock, (vii) Equity Interests and assets of (A) Unrestricted Subsidiaries, special purpose entities and not for profit subsidiaries and (B) captive insurance Subsidiaries, (viii) Equity Interests in joint ventures and non-wholly owned Subsidiaries, in each case, which cannot be pledged without the consent of a third party (that is not a Loan Party), to the extent such consent has not been obtained (other than to the extent such limitation is rendered ineffective under the UCC or other applicable law), (ix) any property subject to a Lien permitted by Section 7.01(u) or (aa) (to the extent relating to a Lien originally incurred pursuant to Section 7.01(u)) to the extent that a grant of a security interest therein would violate or invalidate such underlying obligations or create a right of termination in favor of any other party thereto (other than a Loan Party) or otherwise require consent thereunder (after giving effect to the applicable anti-assignment provisions of the UCC or other applicable law), (x) letter of credit rights, except to the extent constituting support obligations for other Collateral as to which perfection of the security interest in such other Collateral is accomplished solely by the filing of a UCC financing statement (it being understood that no actions shall be required to perfect a security interest in letter of credit rights, other than the filing of a UCC financing statement), (xi) cash and Cash Equivalents (other than cash and Cash Equivalents representing proceeds of Collateral as to which perfection of the security interest in such proceeds is accomplished solely by the filing of a UCC financing statement), deposit and other bank and securities accounts (including securities entitlements and related assets) (in each case, other than proceeds of

Collateral held in such accounts as to which perfection of the security interest in such proceeds is accomplished solely by the filing of a UCC financing statement) and any other assets requiring perfection through control agreements or by “control” (other than in respect of (x) certificated Equity Interests in the Borrower and in wholly owned Restricted Subsidiaries and (y) promissory notes, which Equity Interests and/or promissory notes, as the case may be, are otherwise required to be pledged), (xii) any intent-to-use trademark application prior to the filing of a “Statement of Use” or “Amendment to Allege Use” with respect thereto, to the extent, if any, that, and solely during the period, if any, in which the grant of a security interest therein would impair the validity or enforceability of such intent-to-use trademark application (or any registration that issues therefrom) under applicable federal law and (xiii) intercompany Indebtedness owed by any Foreign Subsidiary solely to the extent that a pledge thereof would result in material adverse tax consequences (as determined by the Administrative Agent in consultation with the Borrower); provided, however, that Excluded Assets shall not include any Proceeds, substitutions or replacements of any Excluded Assets referred to in clauses (i) through (xiii) (unless such Proceeds, substitutions or replacements would independently constitute Excluded Assets referred to in clauses (i) through (xiii)). Neither the Borrower nor any Guarantor shall be required to take any action under the law of any non-U.S. jurisdiction to create or perfect a security interest in any assets located outside the United States or any other assets that require such action, including any intellectual property registered in any non-U.S. jurisdiction (and no security agreements or pledge agreements governed under the laws of any non-U.S. jurisdiction shall be required).

“**Excluded Contribution**” means, at any time, the amount of cash capital contributions to Parent or net after-tax proceeds from the sale or issuance of Qualified Equity Interests of Parent (or any direct or indirect parent of Parent) actually received by Parent as a cash common equity contribution (or issuances of debt securities (other than debt securities that are contractually subordinated to the Obligation) that have been converted into or exchanged for any such Qualified Equity Interests) (other than any amount designated as a Cure Amount or Contribution Indebtedness, used for Equity Funded Employee Plan Costs or included for purposes of determining the Cumulative Credit) and designated by Parent to the Administrative Agent as an Excluded Contribution on the date such capital contributions are made or such Equity Interests are sold or issued.

“**Excluded Information**” has the meaning set forth in Section 2.05(a)(v)(F).

“**Excluded Subsidiary**” means (a) any Subsidiary that is not a wholly-owned Domestic Subsidiary of the Borrower or a Guarantor, (b) any Subsidiary that is prohibited or restricted by applicable Law or by Contractual Obligations existing on the Closing Date (or, in the case of any newly acquired Subsidiary, in existence at the time of acquisition but not entered into in contemplation thereof) from guaranteeing the Obligations or if guaranteeing the Obligations would require governmental (including regulatory) consent, approval, license or authorization, (c) any other Subsidiary with respect to which, in the reasonable judgment of the Borrower and the Designated First Lien Representative or, if the Discharge of First Lien Secured Obligations has occurred, the Administrative Agent, the burden or cost of providing a Guarantee shall be excessive in view of the benefits to be obtained by the Lenders therefrom, (d) any not-for-profit Subsidiaries, (e) any Unrestricted Subsidiaries, (f) any CFC Holding Company, (g) any Domestic Subsidiary that is a Subsidiary of a Foreign Subsidiary that is a CFC, (h) captive insurance Subsidiaries and (i) each other Restricted Subsidiary acquired pursuant to a Permitted Acquisition permitted hereunder and financed with assumed secured Indebtedness, and each Restricted Subsidiary acquired in such Permitted Acquisition permitted hereunder that guarantees such Indebtedness, in each case to the extent that, and for so long as, the documentation relating to such Indebtedness to which such Subsidiary is a party prohibits such Subsidiary from guaranteeing the Obligations and such prohibition was not created in contemplation of such Permitted Acquisition permitted hereunder.

“**Executive Order**” has the meaning set forth in Section 6.21(a).

“**Existing Term Loan Tranche**” has the meaning set forth in Section 2.16(a).

“**Extended Revolving Credit Commitments**” means the “Extended Revolving Credit Commitments” (or any comparable term) as defined in the First Lien Credit Agreement.

“**Extended Revolving Credit Loans**” means the “Extended Revolving Credit Loans” (or any comparable term) as defined in the First Lien Credit Agreement.

“**Extended Term Loans**” has the meaning set forth in Section 2.16(a).

“**Extending Term Lender**” has the meaning set forth in Section 2.16(c).

“**Extension**” means the establishment of an Extension Series by amending a Loan pursuant to the terms of Section 2.16 and the applicable Extension Amendment.

“**Extension Amendment**” has the meaning set forth in Section 2.16(d).

“**Extension Election**” has the meaning set forth in Section 2.16(c).

“**Extension Request**” has the meaning set forth in Section 2.16(a).

“**Extension Series**” has the meaning set forth in Section 2.16(a).

“**Facility**” means the Term Facility, a given Extension Series of Extended Term Loans, a given Class of Incremental Term Loans or a given Refinancing Series of Refinancing Term Loans, as the context may require.

“**FATCA**” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future Treasury regulations or other administrative guidance promulgated thereunder, any agreement entered into pursuant to Section 1471(b) of the Code and any intergovernmental agreements (and related laws and regulations) implementing the foregoing.

“**FCC**” means the Federal Communications Commission.

“**FCC Authorizations**” means all Licenses issued or granted by the FCC in connection with the operation of the business of Parent or any Restricted Subsidiary of Parent, all renewals and extensions thereof, and all applications filed with the FCC to which Parent or any Restricted Subsidiary of Parent is a party.

“**Federal Funds Effective 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 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 Effective Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) of the quotations for the day for such transactions received by the Administrative Agent from three federal funds brokers of recognized standing selected by it.

“**Fee Letter**” means the Amended and Restated Fee Letter, dated as of May 7, 2015, among the Borrower and the Commitment Parties.

“**FIRREA**” means the Financial Institutions Reform, Recovery and Enforcement Act of 1989, as amended.

“**First Lien Administrative Agent**” has the meaning assigned to the term “Administrative Agent” under and as defined in the First Lien Credit Agreement and shall include any successor administrative agent under the First Lien Credit Agreement.

“**First Lien Credit Agreement**” means the “First Lien Credit Agreement” as defined in the Closing Date Intercreditor Agreement.

“**First Lien Credit Agreement Refinancing Indebtedness**” means “Credit Agreement Refinancing Indebtedness” (or any comparable term) as defined in the First Lien Credit Agreement.

“**First Lien Incremental Equivalent Debt**” means the “Incremental Equivalent Debt” (or any comparable term) as defined in the First Lien Credit Agreement.

“**First Lien Incremental Term Loans**” means the “Incremental Term Loans” (or any comparable term) as defined in the First Lien Credit Agreement.

“**First Lien Loan Documents**” means the “First Lien Loan Documents” as defined in the Closing Date Intercreditor Agreement.

“**First Lien Obligations**” means the “Obligations” (or any comparable term) as defined in the First Lien Credit Agreement.

“**First Lien Parity Intercreditor Agreement**” means the “First Lien Parity Intercreditor Agreement” (as defined in the Closing Date Intercreditor Agreement), in form and substance reasonably acceptable to the Administrative Agent.

“**First Lien Secured Obligations**” means the “First Lien Secured Obligations” as defined in the Closing Date Intercreditor Agreement.

“**First Lien Term Facility**” means the First Lien Term Loans and commitments in respect thereof.

“**First Lien Term Loans**” means the “Term Loans” (or any comparable term) as defined in the First Lien Credit Agreement.

“**Fixed Amounts**” has the meaning set forth in Section 1.12.

“**Flood Insurance Laws**” means, collectively, (i) the National Flood Insurance Act of 1968 as now or hereafter in effect or any successor statute thereto, (ii) the Flood Disaster Protection Act of 1973 as now or hereafter in effect or any successor statute thereto, (iii) the National Flood Insurance Reform Act of 1994 as now or hereafter in effect or any successor statute thereto and (iv) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto.

“**Foreign Casualty Event**” has the meaning set forth in Section 2.05(b)(vi).

“**Foreign Disposition**” has the meaning set forth in Section 2.05(b)(vi).

“**Foreign Plan**” means any employee benefit plan, program, policy, arrangement or agreement maintained or contributed to or by, or entered into with, any Loan Party or any Restricted Subsidiary with respect to employees outside the United States.

“**Foreign Subsidiary**” means any direct or indirect Restricted Subsidiary which is not a Domestic Subsidiary.

“**Foreign Subsidiary Excess Cash Flow**” has the meaning set forth in Section 2.05(b)(v).

“**Fund**” means any Person (other than a natural person) that is primarily engaged in making, purchasing, holding or otherwise investing in loans, bonds and other extensions of credit in the ordinary course.

“**GAAP**” means generally accepted accounting principles in the United States of America, as in effect from time to time; provided, however, that, subject to Section 1.03, if Parent notifies the Administrative Agent that Parent requests an amendment to any provision hereof to eliminate the effect of any change occurring after the Closing Date in GAAP or in the application thereof (including through conforming changes made consistent with IFRS) on the operation of such provision (or if the Administrative Agent notifies Parent that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof (including through conforming changes made consistent with IFRS), then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith.

“**GEE Acquisition**” means the acquisition by Parent of 100% of the Equity Interests of EMC Intermediate pursuant to the GEE Acquisition Agreement.

“**GEE Acquisition Agreement**” means that certain Interest Purchase Agreement by and between EMC Parent, as seller, and Parent, as buyer (together with all exhibits, annexes and schedules thereto).

“**Governmental Authority**” means any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, administrative tribunal, 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 body exercising such powers or functions, such as the European Union or the European Central Bank).

“**Granting Lender**” has the meaning set forth in Section 10.07(h).

“**Guarantee**” means, as to any Person, without duplication, any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness 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, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness of the payment or performance of such Indebtedness, (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 (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part). 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 not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term “Guarantee” as a verb has a corresponding meaning.

“**Guaranteed Obligations**” has the meaning set forth in Section 11.01.

“**Guarantors**” has the meaning set forth in the definition of “Collateral and Guarantee Requirement” and shall include Parent, EMC Intermediate, Holdings, the Borrower (solely with respect to its Secured Obligations other than its direct Secured Obligations as a primary obligor (as opposed to a guarantor) under the Loan Documents), JV Holdings and each other Restricted Subsidiary of Parent that shall have become a Guarantor pursuant to Section 6.11, it being understood and agreed that Parent in its sole discretion may cause any Restricted Subsidiary that is not a Guarantor to Guarantee the Obligations by causing such Restricted Subsidiary to execute a Joinder Agreement, and any such Restricted Subsidiary shall be a Guarantor and Subsidiary Guarantor hereunder for all purposes.

“**Guaranty**” means, collectively, the guaranty of the Obligations by the Guarantors pursuant to this Agreement.

“**Hazardous Materials**” means all materials, pollutants, contaminants, chemicals, compounds, constituents, substances or wastes, in any form, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, mold, medical waste, in each case regulated under Environmental Laws.

“**Holdings**” means EMC Acquisition, LLC, a Delaware limited liability company.

“**Identified Participating Lenders**” has the meaning set forth in Section 2.05(a)(v)(C)(3).

“**Identified Qualifying Lenders**” has the meaning set forth in Section 2.05(a)(v)(D)(3).

“**IFRS**” means international accounting standards as promulgated by the International Accounting Standards Board.

“**Immaterial Subsidiary**” means any Subsidiary that is not a Material Subsidiary.

“**Incremental Amendment**” has the meaning set forth in Section 2.14(f).

“**Incremental Equivalent Debt**” has the meaning set forth in Section 7.03(y).

“**Incremental Facility**” means any credit facility established with respect to any Incremental Term Commitments in accordance with Section 2.14 and any Incremental Equivalent Debt.

“**Incremental Facility Closing Date**” has the meaning set forth in Section 2.14(d).

“**Incremental Request**” has the meaning set forth in Section 2.14(a).

“**Incremental Revolving Credit Commitments**” means the “Incremental Revolving Credit Commitments” (or any comparable term) as defined in the First Lien Credit Agreement.

“**Incremental Revolving Loan**” means the “Incremental Revolving Loan” (or any comparable term) as defined in the First Lien Credit Agreement.

“**Incremental Term Commitments**” has the meaning set forth in Section 2.14(a).

“**Incremental Term Lender**” has the meaning set forth in Section 2.14(c).

“**Incremental Term Loan**” has the meaning set forth in Section 2.14(b).

“**Indebtedness**” means, as to any Person at a particular time, without duplication, all of the following:

- (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) all obligations, contingent or otherwise, of such Person as an account party in respect of outstanding letters of credit (including standby and commercial), bankers’ acceptances and bank guaranties;
- (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;
- (e) Indebtedness (excluding prepaid interest thereon) of others secured by a Lien on property owned or being purchased by such Person, whether or not such Indebtedness shall have been assumed by such Person;
- (f) all Attributable Indebtedness;
- (g) all obligations of such Person in respect of Disqualified Equity Interests if and to the extent that the foregoing would constitute indebtedness or a liability in accordance with GAAP; and
- (h) to the extent not otherwise included above, all Guarantees of such Person in respect of Indebtedness of others described in clauses (a) through (g) in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall (A) 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, except to the extent such Person’s liability for such Indebtedness is otherwise limited and only to the extent such Indebtedness would be included in the calculation of Consolidated Total Net Debt, (B) in the case of Parent and its Restricted Subsidiaries, exclude all intercompany Indebtedness having a term not exceeding 364 days (inclusive of any roll-over or extensions of terms) and made in the ordinary course of business and (C) exclude (i) trade accounts and accrued expenses payable in the ordinary course of business, (ii) any earn-out obligation until such obligation is not paid after becoming due and payable, (iii) accruals for payroll and other liabilities accrued in the ordinary course of business, (iv) purchase price holdbacks in respect of a portion of the purchase price of an asset to satisfy warranty or other unperformed obligations of the respective seller and (v) Indebtedness of any parent entity appearing on the balance sheet of Parent, or by reason of push down accounting under GAAP. 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. The amount of Indebtedness of any Person for purposes of clause (e) that is expressly made non-recourse or limited recourse (limited solely to the assets securing such Indebtedness) to such Person shall be deemed to be equal to the lesser of (x) the aggregate unpaid amount of such Indebtedness and (y) the fair market value of the property encumbered thereby as determined by such Person in good faith.

**“Indemnified Taxes”** means, with respect to any Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder or under any other Loan Document, all Taxes imposed on or with respect to any payment under any Loan Documents, other than (i) any Taxes imposed on or measured by its net income, however denominated, and franchise (and similar) Taxes imposed on it in lieu of net income Taxes, in each case imposed by a jurisdiction as a result of such recipient being organized in or having its principal office or, in the case of any Lender, applicable Lending Office in such jurisdiction, or as a result of any other present or former connection between such recipient and such jurisdiction, other than any connections arising solely from executing, delivering, being a party to, engaging in any transactions pursuant to, performing its obligations under, receiving payments under, or enforcing, any Loan Document, (ii) any Taxes attributable to the failure of such Agent or Lender to comply with Section 3.01(d), (iii) any branch profits Taxes imposed by the United States under Section 884(a) of the Code, or any similar Tax, imposed by any jurisdiction described in clause (a), (iv) in the case of a Lender (other than an assignee pursuant to a request by the Borrower under Section 3.07(a)), any U.S. federal withholding Tax that is in effect and would apply to amounts payable hereunder pursuant to a Law in effect at the time such Lender becomes a party to this Agreement, or designates a new Lending Office, except to the extent such Lender (or its assignor, if any) was entitled, immediately prior to the time of designation of a new Lending Office (or assignment), to receive additional amounts from the Borrower or any Guarantor with respect to such withholding Tax pursuant to Section 3.01, and (v) any U.S. federal withholding Taxes imposed under FATCA.

**“Indemnitees”** has the meaning set forth in Section 10.05.

**“Independent Financial Advisor”** means an accounting, appraisal, investment banking firm or consultant of nationally recognized standing that is, in the good faith judgment of Parent, qualified to perform the task for which it has been engaged and that is independent of Parent and its Affiliates.

**“Information”** has the meaning set forth in Section 10.08.

**“Initial Term Commitment”** means, as to each Term Lender, its obligation to make an Initial Term Loan to the Borrower pursuant to Section 2.01 in an aggregate amount not to exceed the amount set forth opposite such Lender’s name on Schedule 2.01 under the caption “Initial Term Commitment” or in the Assignment and Assumption pursuant to which such Term Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement (including Section 2.14). The aggregate amount of the Initial Term Commitments is \$92,000,000.

**“Initial Term Loans”** means the term loans made by the Lenders on the Closing Date to the Borrower pursuant to Section 2.01(a).

**“Intellectual Property Security Agreement”** has the meaning set forth in the Security Agreement.

**“Intercompany Note”** means a promissory note substantially in the form of Exhibit G.

**“Intercreditor Agreements”** means, collectively, (i) the Closing Date Intercreditor Agreement, (ii) any Parity Intercreditor Agreement and (iii) any other intercreditor agreement required pursuant to this Agreement, in each case to the extent then in effect.

**“Interest Payment Date”** means, (a) as to any Eurocurrency 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 that if any Interest Period for a Eurocurrency 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, the last Business Day of each March, June, September and December and the Maturity Date of the Facility under which such Loan was made.

**“Interest Period”** means, as to each Eurocurrency Rate Loan, the period commencing on the date such Eurocurrency Rate Loan is disbursed or converted to or continued as a Eurocurrency Rate Loan and ending on the date one, two, three or six months thereafter, or to the extent agreed by each Lender of such Eurocurrency Rate Loan, 12 months or less than one month (but other than a one week period unless consented to by the Administrative Agent) 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 (other than an Interest Period having a duration of less than one month) 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 applicable Maturity Date.

**“Investment”** means, as to any Person, any direct or indirect acquisition or investment by such Person in another Person by (a) the purchase or other acquisition of Equity Interests or debt or other securities of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of Indebtedness of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person (excluding, in the case of Parent and its Restricted Subsidiaries, intercompany loans, advances, or Indebtedness having a term not exceeding 364 days (inclusive of any roll-over or extensions of terms) and made in the ordinary course of business) or (c) the purchase or other acquisition (in one transaction or a series of transactions) of all or substantially all of the property and assets or business of another Person or assets constituting a business unit, line of business or division of such Person. For purposes of covenant compliance, the amount of any Investment at any time shall be the amount actually invested (measured at the time made), without adjustment for subsequent increases or decreases in the value of such Investment, less (except in the case of (x) Investments made using the Cumulative Credit pursuant to Section 7.02(c)(iii)(C)(y) or Section 7.02(n)(y) and (y) Returns which increase the Cumulative Credit pursuant to clause (h) of the definition thereof) any Returns of Parent or a Restricted Subsidiary in respect of such Investment.

**“IP Rights”** has the meaning set forth in Section 5.15.

**“Joinder Agreement”** means a joinder agreement substantially in the form of Joinder Agreement attached as Exhibit M hereto or in such other form agreed by the Administrative Agent.

**“Junior Financing”** has the meaning set forth in Section 7.13(a).

**“Junior Financing Documentation”** means any documentation governing any Junior Financing.

**“JV Holdings”** means the Restricted Subsidiary entitled to allocations and distributions with respect to the Equity Interests of WMS, which Restricted Subsidiary shall be a Subsidiary Guarantor.

**“Latest Maturity Date”** means, at any date of determination, the latest Maturity Date applicable to any Loan or Commitment hereunder at such time, including the latest maturity date of any Extended

Term Loans, Incremental Term Loans, Refinancing Term Loans, Replacement Term Loans and Refinancing Term Commitments, in each case as extended in accordance with this Agreement from time to 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, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority.

“**LCA Election**” has the meaning set forth in Section 1.12.

“**LCA Test Date**” has the meaning set forth in Section 1.12.

“**Lender**” has the meaning set forth in the introductory paragraph to this Agreement and their respective successors and assigns as permitted hereunder, each of which is referred to herein as a “Lender.”

“**Lender Default**” means (i) the refusal (which may be given verbally or in writing and has not been retracted) or failure of any Lender to make available its portion of any incurrence of Loans, which refusal or failure is not cured within one business day after the date of such refusal or failure, unless such Lender notifies the Administrative Agent in writing that such refusal or failure is the result of such Lender’s good faith determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in writing) has not been satisfied, (ii) the failure of any Lender to pay over to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within one business day of the date when due, unless the subject of a good faith dispute, (iii) a Lender has notified the Borrower or the Administrative Agent that it does not intend to comply with its funding obligations under this Agreement or has stated publicly that it will generally not comply with its funding obligations under any loan agreements, credit agreements, and other similar agreements, (iv) a Lender has failed to confirm in a manner reasonably satisfactory to the Administrative Agent that it will comply with its funding obligations under this Agreement (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (iv) upon receipt of such written confirmation by the Administrative Agent and the Borrower), or (v) a Distressed Person has admitted in writing that it is insolvent or such Distressed Person becomes subject to a Lender-Related Distress Event.

“**Lender-Related Distress Event**” shall mean, with respect to any Lender or any other Person that directly or indirectly controls such Lender (each, a “**Distressed Person**”), (i) a voluntary or involuntary case with respect to such Distressed Person under any debt relief law, (ii) a custodian, conservator, receiver, or similar official is appointed for such Distressed Person or any substantial part of such Distressed Person’s assets, (iii) such Distressed Person, or any Person that directly or indirectly controls such Distressed Person or is subject to a forced liquidation, (iv) such Distressed Person makes a general assignment for the benefit of creditors or is otherwise adjudicated as, or determined by any governmental authority having regulatory authority over such Distressed Person to be, insolvent or bankrupt or (v) such Distressed Person becomes the subject of a Bail-In Action; provided that a Lender-Related Distress Event shall not be deemed to have occurred solely by virtue of the ownership or acquisition of any equity interests in any Lender or any Person that directly or indirectly controls such Lender by a governmental authority or an instrumentality thereof.

“**Lending Office**” means, as to any Lender, such office or offices as a Lender may from time to time notify the Borrower and the Administrative Agent.

“**License**” means any license, registration, accreditation, approval, qualification, provider number, right, privilege, consent, permit or other authorization issued by any Governmental Authority (including the FCC), together with any amendments, supplements and other modifications thereto.

“**Licensed Activities**” means, with respect to any Person, any transactions, investments or other activities by such Person in or with a Sanctioned Country to the extent that such transactions, investments or other activities are in compliance with a license issued to such Person by OFAC, the U.S Department of State, or the U.S Department of Commerce Bureau of Industry and Security, as required by the applicable requirements of Law.

“**Lien**” means, with respect to any asset, any mortgage, deed of trust, pledge, hypothecation, collateral assignment, security deposit arrangement, encumbrance, lien (statutory or other), charge or other security interest of any kind or nature in respect of such asset (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to Real Property, and any Capitalized Lease having substantially the same economic effect as any of the foregoing).

“**Limited Condition Acquisition**” has the meaning set forth in Section 1.12.

“**Loan**” means an extension of credit under Article 2 by a Lender to the Borrower in the form of a Term Loan (including any Initial Term Loans, any Incremental Term Loans, any Extended Term Loans, any Refinancing Term Loans and any Replacement Term Loans).

“**Loan Documents**” means, collectively, (i) this Agreement, (ii) the Notes, (iii) the Collateral Documents, (iv) the Amendment No. 1 and any Refinancing Amendment, Incremental Amendment or Extension Amendment, (v) each Intercreditor Agreement, (vi) any other document or instrument designated by the Borrower and the Administrative Agent as a “Loan Document” and (vii) any amendment or joinder (including, without limitation, any Joinder Agreement) to this Agreement.

“**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.

“**LTM EBITDA**” means Consolidated EBITDA for the most recent four fiscal quarter period for which financial statements have been delivered pursuant to Section 4.01(f), 6.01(a) or (b), determined on Pro Forma Basis.

“**Macquarie**” means Macquarie Capital (USA) Inc.

“**Margin Stock**” shall have the meaning assigned to such term in Regulation U of the Board of Governors of the Federal Reserve System, or any successor thereto.

“**Master Agreement**” has the meaning set forth in the definition of “Swap Contract.”

“**Material Adverse Effect**” means any event, change or condition that, individually or in the aggregate, has had, or would reasonably be expected to have (a) on the Closing Date, a Material Adverse Effect (as defined in the Acquisition Agreement) or (b) after the Closing Date, a material adverse effect on (i) the business, assets, financial condition or results of operations of Parent and its Restricted

Subsidiaries, taken as a whole, (ii) the ability of the Borrower and the Guarantors (taken as a whole) to perform their payment obligations under any Loan Document to which the Borrower or any of the Loan Parties is a party or (iii) the material rights and remedies of the Administrative Agent and the Lenders under the Loan Documents, taken as a whole, including the legality, validity, binding effect or enforceability of the Loan Documents.

**“Material Domestic Subsidiary”** means, at any date of determination, each of Parent’s Domestic Subsidiaries that are Restricted Subsidiaries (a) whose total assets at the last day of the most recent Test Period were equal to or greater than 5.0% of Total Assets at such date or (b) whose gross revenues for such Test Period were equal to or greater than 5.0% of the consolidated gross revenues of Parent and its Restricted Subsidiaries for such period, in each case determined in accordance with GAAP; provided that if, at any time and from time to time after the Closing Date, Domestic Subsidiaries that are not Guarantors solely because they do not meet the thresholds set forth in clauses (a) or (b) comprise in the aggregate more than 5.0% of Total Assets as of the end of the most recently ended fiscal quarter of Parent for which financial statements have been delivered pursuant to Section 6.01 or more than 5.0% of the consolidated gross revenues of Parent and its Restricted Subsidiaries for such Test Period, then Parent shall, not later than 45 days after the date by which financial statements for such quarter or Test Period, as applicable, are required to be delivered pursuant to this Agreement (or such longer period as the Administrative Agent may agree in its reasonable discretion), (i) designate in writing to the Administrative Agent one or more of such Domestic Subsidiaries as “Material Domestic Subsidiaries” to the extent required such that the foregoing condition ceases to be true and (ii) comply with the provisions of Section 6.11 applicable to such Subsidiary.

**“Material Foreign Subsidiary”** means, at any date of determination, each of Parent’s Foreign Subsidiaries (a) whose total assets at the last day of the most recent Test Period were equal to or greater than 5.0% of Total Assets at such date or (b) whose gross revenues for such Test Period were equal to or greater than 5.0% of the consolidated gross revenues of Parent and its Restricted Subsidiaries for such period, in each case determined in accordance with GAAP; provided that if, at any time and from time to time after the Closing Date, Foreign Subsidiaries not meeting the thresholds set forth in clauses (a) or (b) comprise in the aggregate more than 5.0% of Total Assets as of the end of the most recently ended fiscal quarter of Parent for which financial statements have been delivered pursuant to Section 6.01 or more than 5.0% of the consolidated gross revenues of Parent and its Restricted Subsidiaries for such Test Period, then Parent shall, not later than 45 days after the date by which financial statements for such quarter or Test Period, as applicable, are required to be delivered pursuant to this Agreement (or such longer period as the Administrative Agent may agree in its reasonable discretion), (i) designate in writing to the Administrative Agent one or more of such Foreign Subsidiaries as “Material Foreign Subsidiaries” to the extent required such that the foregoing condition ceases to be true and (ii) comply with the provisions of the definition of “Collateral and Guarantee Requirement.”

**“Material Non-Public Information”** means information which is (a) not publicly available, (b) material with respect to Parent and its Subsidiaries or their respective securities for purposes of United States federal and state securities laws and (c) not of a type that would be publicly disclosed in connection with any issuance by Parent or any of its Subsidiaries of debt or equity securities issued pursuant to a public offering, a Rule 144A offering or other private placement where assisted by a placement agent.

**“Material Real Property”** means any fee-owned Real Property located in the United States that is owned by any Loan Party and that has a fair market value in excess of \$2,500,000 (at the Closing Date or, with respect to Real Property acquired after the Closing Date, at the time of acquisition, in each case, as reasonably estimated by the Borrower in good faith).

“**Material Subsidiary**” means any Material Domestic Subsidiary or any Material Foreign Subsidiary.

“**Maturity Date**” means (i) with respect to the Initial Term Loans, the earlier of (x) the seventh anniversary of the Closing Date and (y) in the event any holder of Parent’s Convertible Notes shall require Parent to repurchase all of such holder’s Convertible Notes on any Specified Repurchase Date (as defined in the Convertible Notes Indenture) pursuant to Article XIV of the Convertible Notes Indenture, such Specified Repurchase Date; provided that this clause (y) shall not apply if the aggregate principal amount of Convertible Notes to be so repurchased is less than \$18,750,000, (ii) with respect to any tranche of Extended Term Loans, the final maturity date as specified in the applicable Extension Amendment, (iii) with respect to any Incremental Term Loans, the final maturity date as specified in the applicable Incremental Amendment, (iv) with respect to any Refinancing Term Loans, the final maturity date as specified in the applicable Refinancing Amendment, and (v) with respect to any Replacement Term Loans, the final maturity date as specified in the applicable agreement relating thereto; provided that, in each case, if such day is not a Business Day, the Maturity Date shall be the Business Day immediately succeeding such day. “**Maximum Rate**” has the meaning set forth in Section 10.10.

“**Minimum Tender Condition**” has the meaning set forth in Section 2.18(b).

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

“**Mortgage Policies**” has the meaning set forth in the definition of “Collateral and Guarantee Requirement.”

“**Mortgaged Properties**” has the meaning set forth in the definition of “Collateral and Guarantee Requirement.”

“**Mortgages**” means collectively, the deeds of trust, trust deeds, hypothecs and mortgages made by the Loan Parties in favor or for the benefit of the Administrative Agent on behalf of the Secured Parties creating and evidencing a Lien on a Mortgaged Property in form and substance reasonably satisfactory to the Administrative Agent and any other mortgage executed and delivered pursuant to Sections 6.11 and 6.13, in each case, as the same may from time to time be amended, restated, supplemented or otherwise modified.

“**MSSF**” means Morgan Stanley Senior Funding, Inc.

“**MTN**” means Maritime Telecommunications Network, Inc., a Colorado corporation.

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

“**Net Proceeds**” means:

(a) 100% of the cash proceeds actually received by Parent or any of the Restricted Subsidiaries (including any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable or otherwise and including casualty insurance settlements and condemnation awards, but in each case only as and when received) from any Disposition or Casualty Event, net of (i) attorneys’ fees, accountants’ fees, investment banking fees, survey costs, title insurance premiums, and related

search and recording charges, transfer taxes, deed or mortgage recording taxes, other customary expenses and brokerage, consultant and other customary fees and expenses actually incurred in connection therewith, (ii) the principal amount of any Indebtedness that is secured by a Lien (other than a Lien that ranks *pari passu* with or is subordinated to the Liens securing the Obligations) on the asset subject to such Disposition or Casualty Event and that is required to be repaid in connection with such Disposition or Casualty Event (other than Indebtedness under the Loan Documents), together with any applicable premium, penalty, interest and breakage costs, (iii) in the case of any Disposition or Casualty Event by a non-wholly owned Restricted Subsidiary, the *pro rata* portion of the Net Proceeds thereof (calculated without regard to this clause (iii)) attributable to minority interests and not available for distribution to or for the account of Parent or a wholly owned Restricted Subsidiary as a result thereof, (iv) Taxes or Tax Distributions paid or reasonably estimated to be payable or, without duplication, permitted to be paid as a result thereof, (v) the amount of any reasonable reserve established in accordance with GAAP against any adjustment to the sale price or any liabilities (other than any taxes deducted pursuant to clause (i) above) (x) related to any of the applicable assets and (y) retained by Parent or any of the Restricted Subsidiaries including, without limitation, pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations (however, the amount of any subsequent reduction of such reserve (other than in connection with a payment in respect of any such liability) shall be deemed to be Net Proceeds of such Disposition or Casualty Event occurring on the date of such reduction) and (vi) any funded escrow established pursuant to the documents evidencing any such sale or disposition (provided that, to the extent that any amounts are released from such escrow to Parent or a Restricted Subsidiary, such amounts net of any related expenses shall constitute Net Proceeds); provided that, subject to the restrictions set forth in Section 7.05(j), if Parent or any of its Restricted Subsidiaries use any portion of such proceeds to acquire, maintain, develop, construct, improve, upgrade or repair assets useful in the business of Parent or its Restricted Subsidiaries (other than current assets) or to make Permitted Acquisitions or any acquisition of all or substantially all the assets of, or all the Equity Interests (other than directors' qualifying shares) in, a Person (other than a Company Party) or division or line of business of a Person (other than a Company Party) (or any subsequent investment made in a Person (other than a Company Party), division or line of business previously acquired), in each case within 12 months of such receipt, such portion of such proceeds shall not constitute Net Proceeds except to the extent not, within 12 months of such receipt, so used or contractually committed to be so used (it being understood that if any portion of such proceeds are not so used within such 12-month period but within such 12-month period are contractually committed to be used, then upon the termination of such contract or if such Net Proceeds are not so used within the later of such 12-month period and 180 days from the entry into such contractual commitment, such remaining portion shall constitute Net Proceeds as of the date of such termination or expiry without giving effect to this proviso); provided, further, that no proceeds realized in a single transaction or series of related transactions shall constitute Net Proceeds unless (x) such proceeds shall exceed \$5,000,000 or (y) the aggregate net proceeds excluded under clause (x) shall exceed \$10,000,000 in any fiscal year (and thereafter only net cash proceeds in excess of such amount shall constitute Net Proceeds under this clause (a)), and

(b) 100% of the cash proceeds from the incurrence, issuance or sale by Parent or any of the Restricted Subsidiaries of any Indebtedness, net of all taxes paid or reasonably estimated to be payable as a result thereof and fees (including investment banking fees and discounts), commissions, costs and other expenses, in each case incurred in connection with such incurrence, issuance or sale.

For purposes of calculating the amount of Net Proceeds, fees, commissions and other costs and expenses payable to Parent, the Borrower and their Restricted Subsidiaries shall be disregarded.

“**Non-Consenting Lender**” has the meaning set forth in Section 3.07(d).

“**Non-Debt Fund Affiliate**” means any Affiliate of Parent, including Parent or any Subsidiary of Parent, but excluding (a) any Debt Fund Affiliate and (b) any natural person.

“**Non-Defaulting Lender**” means, at any time, a Lender that is not a Defaulting Lender.

“**Note**” means a promissory note of the Borrower payable to any Term Lender or its registered assigns, in substantially the form of Exhibit C hereto, evidencing the aggregate Indebtedness of the Borrower to such Term Lender resulting from the Term Loans made by such Term Lender.

“**Obligations**” means all advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party and its Restricted Subsidiaries arising under any Loan Document or otherwise with respect to any Loan, 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 Restricted Subsidiary 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. Without limiting the generality of the foregoing, the Obligations of the Loan Parties under the Loan Documents (and of their Restricted Subsidiaries to the extent they have obligations under the Loan Documents) include (a) the obligation (including guarantee obligations) to pay principal, interest, reimbursement obligations, charges, expenses, fees, Attorney Costs, 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 may elect to pay or advance on behalf of such Loan Party in accordance with the terms of the Loan Documents.

“**OFAC**” means the U.S. Department of the Treasury’s Office of Foreign Assets Control.

“**Offered Amount**” has the meaning set forth in Section 2.05(a)(v)(D)(1).

“**Offered Discount**” has the meaning set forth in Section 2.05(a)(v)(D)(1).

“**OID**” means original issue discount.

“**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 or limited liability company agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

“**Other Applicable Indebtedness**” has the meaning set forth in Section 2.05(b)(ii).

“**Other Taxes**” has the meaning set forth in Section 3.01(b).

“**Outstanding Amount**” means, with respect to Term Loans on any date, the outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Term Loans occurring on such date.

“**Overnight Rate**” means, for any day, the greater of the Federal Funds Effective Rate and an overnight rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

“**Par Capital**” means PAR Investment Partners, L.P., and any of its Controlled Investment Affiliates.

“**Parent**” means Global Eagle Entertainment Inc., a Delaware corporation.

“**Parity Intercreditor Agreement**” means the “Second Lien Parity Intercreditor Agreement” (as defined in the Closing Date Intercreditor Agreement), in form and substance reasonably acceptable to the Administrative Agent.

“**Participant**” has the meaning set forth in Section 10.07(e).

“**Participant Register**” has the meaning set forth in Section 10.07(e).

“**Participating Lender**” has the meaning set forth in Section 2.05(a)(v)(C)(2).

“**PBGC**” means the Pension Benefit Guaranty Corporation.

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

“**Perfection Certificate**” means a certificate substantially in the form of Exhibit II to the Security Agreement or any other form reasonably approved by the Administrative Agent, as the same shall be supplemented from time to time.

“**Permitted Acquisition**” has the meaning set forth in Section 7.02(i).

“**Permitted Debt Exchange**” shall have the meaning provided in Section 2.18(a).

“**Permitted Debt Exchange Notes**” means Indebtedness in the form of unsecured, second lien or other junior lien notes; provided that such Indebtedness (i) meets the Permitted Other Debt Conditions, (ii) the covenants of such Indebtedness are, taken as a whole, not more restrictive to Parent and the Restricted Subsidiaries than those contained in the Loan Documents (except for (x) covenants or other provisions applicable only to periods after the Maturity Date of the applicable Facility existing at the time of incurrence or issuance of such of such Permitted Debt Exchange Notes and (y) any financial maintenance covenant to the extent such covenant is also added for the benefit of the Lenders under any applicable existing corresponding Facility) or otherwise reflect market terms and conditions (as reasonably determined by the Borrower) at the time of incurrence or issuance of such Permitted Debt Exchange Notes, (iii) does not mature prior to the day that is 91 days after the Latest Maturity Date of the Term Loans, (iv) such Indebtedness is not at any time Guaranteed by any Subsidiary other than

Guarantors, (v) to the extent secured, such Indebtedness is not secured by property other than the Collateral, and (vi) if such Indebtedness is secured, the requirements in the proviso at the end of Section 7.03 have been satisfied.

“**Permitted Debt Exchange Offer**” shall have the meaning provided in Section 2.18(a).

“**Permitted Junior Priority Refinancing Debt**” means secured Indebtedness incurred by Parent, Holdings, Borrower or any Subsidiary Guarantor in the form of one or more series of junior lien secured notes or secured loans ranking junior to the liens securing the Facility; provided that (i) such Indebtedness is secured by the Collateral on a junior priority basis to the Liens securing the Obligations and the obligations in respect of any Permitted Second Priority Refinancing Debt, (ii) such Indebtedness constitutes Credit Agreement Refinancing Indebtedness, and (iii) the requirements in the proviso at the end of Section 7.03 have been satisfied. Permitted Junior Priority Refinancing Debt will include any junior secured or unsecured Registered Equivalent Notes issued in exchange therefor.

“**Permitted Other Debt Conditions**” means that such applicable Indebtedness does not mature or have scheduled amortization payments of principal or payments of principal and is not subject to mandatory redemption, repurchase, prepayment or sinking fund obligations (except (x) customary asset sale, initial public offering or change of control or similar event provisions, (y) maturity payments and customary mandatory prepayments for a customary bridge financing which, subject to customary conditions, provides for automatic conversion or exchange into Indebtedness that otherwise complies with the requirements of this definition or (z) “AHYDO” payments), in each case prior to the Latest Maturity Date at the time such Indebtedness is incurred.

“**Permitted Ratio Debt**” means Indebtedness incurred by Parent, Holdings, the Borrower or any Restricted Subsidiary in the form of unsecured Indebtedness or secured loans secured by a Lien on the Collateral ranking junior in right of priority to the Liens securing the Obligations in an aggregate principal amount not to exceed \$25,000,000; *plus* an additional unlimited amount, so long as immediately after giving Pro Forma Effect thereto and to the use of the proceeds thereof, (x) if such Indebtedness is unsecured Indebtedness, the Consolidated Total Net Leverage Ratio (determined on a Pro Forma Basis in accordance with Section 1.09 and without netting the cash proceeds of any such Indebtedness for the purposes of such calculation) is no greater than 5.00 to 1.00 and (y) if such Indebtedness is secured Indebtedness, the Consolidated Senior Secured Net Leverage Ratio (determined on a Pro Forma Basis in accordance with Section 1.09 and without netting the cash proceeds of any such Indebtedness being so incurred for the purposes of such calculation) is no greater than 3.50 to 1.00; provided that such Indebtedness (i) does not mature prior to the date that is 91 days after the Latest Maturity Date at the time such Indebtedness is incurred or the maturity date of such Indebtedness can be extended subject to any customary “bridge” conditions to a date that is 91 days after the Latest Maturity Date at the time such Indebtedness is incurred, (ii) shall have a Weighted Average Life To Maturity greater than the remaining Weighted Average Life To Maturity of any then-existing Term Loans, (iii) meets the Permitted Other Debt Conditions, (iv) has covenants, taken as a whole, that are not more restrictive to Parent and the Restricted Subsidiaries than those applicable to the Term Facility (except (x) for covenants applicable only to periods after the Latest Maturity Date of the applicable Facility at the time of incurrence and (y) any financial maintenance covenant to the extent such covenant is also added for the benefit of the Lenders under any applicable existing corresponding Facility) or otherwise reflect market terms and conditions at the time of such incurrence or issuance (as determined by Parent in good faith), (v) is not Guaranteed by any Person that is not a Loan Party and, to the extent secured, shall not be secured by any assets that do not constitute Collateral and the requirements in the proviso at the end of Section 7.03 shall be satisfied, and (vi) if incurred or guaranteed by a Restricted Subsidiary that is not a Loan Party does not, together with any Indebtedness incurred by a Restricted Subsidiary that is not a Loan Party pursuant to Section 7.03(g) (including any Permitted Refinancing thereof, to the extent incurred or guaranteed by a

Restricted Subsidiary that is not a Loan Party), exceed in the aggregate at any time outstanding the greater of \$18.750,000 and 31.25% of LTM EBITDA, in each case determined at the time of incurrence.

“**Permitted Refinancing**” means, with respect to any Person, any modification, refinancing, refunding, renewal, restructuring, replacement 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 modified, refinanced, restructured, refunded, renewed, replaced or extended except by an amount equal to unpaid accrued interest and premium thereon *plus* other amounts owing or paid related to such Indebtedness, and fees and expenses incurred, in connection with such modification, refinancing, refunding, renewal, restructuring, replacement or extension *plus* 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 7.03(e), such modification, refinancing, refunding, renewal, replacement 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 modified, refinanced, refunded, renewed, replaced or extended, (c) other than with respect to a Permitted Refinancing in respect of Indebtedness permitted pursuant to Section 7.03(e) or (f), at the time thereof, no Event of Default shall have occurred and be continuing, (d) if such Indebtedness being modified, refinanced, refunded, renewed, replaced or extended is subordinated in right of payment to the Obligations, such modification, refinancing, refunding, renewal, replacement or extension is subordinated in right of payment to the Obligations on terms (i) at least as favorable (taken as a whole) (as reasonably determined by Parent) to the Lenders as those contained in the documentation governing the Indebtedness being modified, refinanced, refunded, renewed, replaced or extended or (ii) as otherwise reasonably acceptable to the Administrative Agent, (e) if such Indebtedness being modified, refinanced, replaced, refunded, renewed or extended is Indebtedness permitted pursuant to Section 7.03(s) or 7.03(x), (i) to the extent such Indebtedness being modified, refinanced, replaced, refunded, renewed or extended is unsecured or secured by Liens that are subordinated to the Liens securing the Obligations, such modification, refinancing, replacement, refunding, renewal or extension is unsecured or (with respect to refinanced debt secured by Liens that are subordinated to the Liens securing the Obligations) secured by Liens that are subordinated to the Liens securing the Obligations on terms (x) at least as favorable (taken as a whole) (as reasonably determined by Parent) to the Lenders as those contained in the documentation (including any intercreditor or similar agreements) governing the Indebtedness being modified, refinanced, replaced, refunded, renewed or extended or (y) otherwise reasonably acceptable to the Administrative Agent and (ii) notwithstanding anything contained in Section 7.03(c), such modification, refinancing, refunding, renewal, replacement or extension is incurred by one or more Persons who is an obligor of the Indebtedness being modified, refinanced, replaced, refunded, renewed or extended and (f) if such Indebtedness being modified, refinanced, refunded, renewed, replaced or extended is outstanding pursuant to the First Lien Credit Agreement or any other First Lien Loan Document, such modification, refinancing, refunding, renewal, replacement or extension does not violate the terms of the Closing Date Intercreditor Agreement.

“**Permitted Repricing Amendment**” has the meaning set forth in Section 10.01.

“**Permitted Second Priority Refinancing Debt**” means any secured Indebtedness incurred by Parent, Holdings, the Borrower or any Subsidiary Guarantor in the form of one or more series of senior secured notes; provided that (i) such Indebtedness is designated as “Additional Second Lien Debt” under (and as defined in) the Closing Date Intercreditor Agreement, (ii) such Indebtedness constitutes Credit Agreement Refinancing Indebtedness and (iii) the requirements in the proviso at the end of Section 7.03 have been satisfied. Permitted Second Priority Refinancing Debt will include any Registered Equivalent Notes issued in exchange therefor.

**“Permitted Unsecured Refinancing Debt”** means unsecured Indebtedness incurred by Parent, Holdings, the Borrower or any Subsidiary Guarantor in the form of one or more series of senior unsecured notes or loans; provided that such Indebtedness constitutes Credit Agreement Refinancing Indebtedness. Permitted Unsecured Refinancing Debt will include any Registered Equivalent Notes issued in exchange therefor.

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

**“Plan”** means any “employee benefit plan” (as such term is defined in Section 3(3) of ERISA) other than a Foreign Plan, established or maintained by any Loan Party or any Restricted Subsidiary or, with respect to any such plan that is subject to Section 412 of the Code or Section 302 or Title IV of ERISA, any ERISA Affiliate.

**“Platform”** has the meaning set forth in Section 6.01(d).

**“Pledged Debt”** has the meaning set forth in the Security Agreement.

**“Pledged Equity”** has the meaning set forth in the Security Agreement.

**“Proceeding”** has the meaning set forth in Section 10.05.

**“Proceeds”** has the meaning set forth in the Security Agreement.

**“Pro Forma Balance Sheet”** has the meaning set forth in Section 5.05(b).

**“Pro Forma Basis”** and **“Pro Forma Effect”** means, with respect to compliance with any test or covenant or calculation of any ratio hereunder, the determination or calculation of such test, covenant or ratio (including in connection with Specified Transactions) in accordance with Section 1.09.

**“Pro Forma Financial Statements”** has the meaning set forth in Section 5.05(b).

**“Pro Rata Share”** means, with respect to each Lender, at any time a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Commitments and, if applicable and without duplication, Term Loans of such Lender under the applicable Facility or Facilities at such time and the denominator of which is the amount of the Aggregate Commitments under the applicable Facility or Facilities and, if applicable and without duplication, Term Loans under the applicable Facility or Facilities at such time.

**“Projections”** has the meaning set forth in Section 6.01(c).

**“Public Lender”** has the meaning set forth in Section 6.01(d).

**“Qualified Equity Interests”** means any Equity Interests that are not Disqualified Equity Interests.

**“Qualifying Lender”** has the meaning set forth in Section 2.05(a)(v)(D)(3).

**“Quarterly Financial Statements”** means the unaudited consolidated balance sheets and related consolidated statements of income and cash flows of each of the Borrower and Target and their respective Subsidiaries for the fiscal quarter ended March 31, 2015 and each subsequent fiscal quarter of each of the

Borrower and Target (other than the fourth fiscal quarter) ended at least 45 days prior to the Closing Date.

**“Real Property”** means, collectively, all right, title and interest (including any leasehold, mineral or other estate) in and to any and all parcels of or interests in real property owned or leased by any Person, whether by lease, license or other means, together with, in each case, all easements, hereditaments and appurtenances relating thereto, all improvements and appurtenant fixtures.

**“Refinanced Debt”** has the meaning set forth in the definition of “Credit Agreement Refinancing Indebtedness”.

**“Refinanced Term Loans”** has the meaning set forth in Section 10.01.

**“Refinancing”** means the prepayment in full of all existing credit facilities and other material third party debt for borrowed money of each of the Borrower and Target and their respective Subsidiaries, and all commitments, security interests and guaranties in connection therewith shall have been terminated and released (other than letters of credit that have been backstopped or cash collateralized).

**“Refinancing Amendment”** means an amendment to this Agreement executed by each of (a) the Borrower, (b) the Administrative Agent, (c) each Additional Refinancing Lender and (d) each Lender that agrees to provide any portion of Refinancing Term Loans or Refinancing Term Commitments incurred pursuant thereto, in accordance with Section 2.15.

**“Refinancing Revolving Credit Commitments”** means the “Refinancing Revolving Credit Commitments” (or any comparable term) as defined in the First Lien Credit Agreement.

**“Refinancing Revolving Credit Loans”** means the “Refinancing Revolving Credit Loans” (or any comparable term) as defined in the First Lien Credit Agreement.

**“Refinancing Series”** means all Refinancing Term Loans or Refinancing Term Commitments that are established pursuant to the same Refinancing Amendment (or any subsequent Refinancing Amendment to the extent such Refinancing Amendment expressly provides that the Refinancing Term Loans or Refinancing Term Commitments provided for therein are intended to be a part of any previously established Refinancing Series) and that provide for the same Effective Yield (other than, for this purpose, any original issue discount or upfront fees), if applicable, and amortization schedule.

**“Refinancing Term Commitments”** means one or more term loan commitments hereunder that fund Refinancing Term Loans of the applicable Refinancing Series hereunder pursuant to a Refinancing Amendment.

**“Refinancing Term Loans”** means one or more Classes of Term Loans hereunder that result from a Refinancing Amendment.

**“Register”** has the meaning set forth in Section 10.07(d).

**“Registered Equivalent Notes”** means, with respect to any notes originally issued in an offering pursuant to Rule 144A under the Securities Act or other private placement transaction under the Securities Act, substantially identical notes (having the same guarantees) issued in a dollar-for-dollar exchange therefor pursuant to an exchange offer registered with the SEC.

**“Rejection Notice”** has the meaning set forth in Section 2.05(b)(viii).

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

**“Release”** means any spilling, leaking, seepage, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing, depositing, dispersing or migrating in, into, onto or through the Environment or in an uncontained manner from or through any facility, property or equipment.

**“Replacement Term Loans”** has the meaning set forth in Section 10.01.

**“Reportable Event”** means any of the events set forth in Section 4043(c) of ERISA or the regulations issued thereunder, other than events for which the otherwise applicable notice period has been waived by regulation or otherwise by the PBGC.

**“Representative”** means, with respect to any series of Permitted Second Priority Refinancing Debt, Permitted Junior Priority Refinancing Debt, Incremental Equivalent Debt, Junior Secured Financing, Credit Agreement Refinancing Indebtedness, First Lien Credit Agreement Refinancing Indebtedness, First Lien Incremental Equivalent Debt or Permitted First Priority Refinancing Debt, the trustee, administrative agent, collateral agent, security agent or similar agent under the indenture or agreement pursuant to which such Indebtedness is issued, incurred or otherwise obtained, as the case may be, and each of their successors in such capacities.

**“Request for Borrowing”** means, with respect to a Borrowing, continuation or conversion of Term Loans, a Committed Loan Notice.

**“Required Class Lenders”** means, with respect to any Class on any date of determination, Lenders having more than 50% of the sum of (i) the outstanding Loans under such Class and (ii) the aggregate unused Commitments under such Class; provided that, to the same extent set forth in Section 10.07(m) with respect to determination of Required Lenders, the Loans of any Affiliated Lender shall in each case be excluded for purposes of making a determination of Required Class Lenders; provided, further, that the unused Term Commitment, Incremental Term Commitment and Refinancing Term 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 Class Lenders.

**“Required Lenders”** means, as of any date of determination, Lenders having more than 50% of the sum of the (a) Total Outstandings and (b) aggregate unused Initial Term Commitments, Incremental Term Commitments and Refinancing Term Commitments; provided that the unused Term Commitment, Incremental Term Commitment and Refinancing Term 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; provided, further, that, to the same extent set forth in Section 10.07(m) with respect to determination of Required Lenders, the Loans of any Affiliated Lender shall in each case be excluded for purposes of making a determination of Required Lenders; provided, further, that, with respect to any determination of Required Lenders, Debt Fund Affiliates cannot, in the aggregate, account for more than 49.9% of the amounts included in such determination as provided in Section 10.07(o).

**“Responsible Officer”** means the chief executive officer, president, vice president, chief financial officer, chief administrative officer, secretary or assistant secretary, treasurer or assistant treasurer, controller or other similar officer 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 Cash”** means cash and Cash Equivalents held by Parent and its Restricted Subsidiaries identified on such balance sheet as “restricted” (including cash or Cash Equivalents subject to a control agreement in favor of any Person other than the Administrative Agent, but excluding cash or Cash Equivalents restricted in favor of the Administrative Agent on behalf of all Secured Parties).

**“Restricted Payment”** means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interest of Parent or any Restricted Subsidiary, 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 Equity Interest, or on account of any return of capital to Parent’s or a Restricted Subsidiary’s equity holders, partners or members (or the equivalent Persons thereof).

**“Restricted Subsidiary”** means any Subsidiary of Parent (including Borrower) other than an Unrestricted Subsidiary.

**“Retained Percentage”** means, with respect to any Excess Cash Flow Period, (a) 100% *minus* (b) the Applicable ECF Percentage with respect to such Excess Cash Flow Period.

**“Returns”** means, with respect to any Investment, any dividends, distributions, interest, fees, premium, return of capital, repayment of principal, income, profits (from a Disposition or otherwise) and other amounts received or realized in respect of such Investment.

**“Revolving Credit Commitment”** means the “Revolving Credit Commitment” (or any comparable term) as defined in the First Lien Credit Agreement.

**“Revolving Credit Exposure”** means the “Revolving Credit Exposure” (or any comparable term) as defined in the First Lien Credit Agreement.

**“Revolving Credit Facility”** means the “Revolving Credit Facility” (or any comparable term) as defined in the First Lien Credit Agreement.

**“Revolving Credit Loans”** means the “Revolving Credit Loans” (or any comparable term) as defined in the First Lien Credit Agreement.

**“S&P”** means Standard & Poor’s Financial Services LLC, a division of McGraw Hill Financial, and any successor thereto.

**“Same Day Funds”** means immediately available funds.

**“Sanctions”** means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or (b) as applicable, the United Nations Security Council, the European Union or Her Majesty’s Treasury of the United Kingdom.

**“Sanctioned Country”** means, at any time, a country or territory which is itself the subject or target of any comprehensive Sanctions (at the time of this Agreement, the Crimean region of Ukraine, Cuba, Iran, North Korea, Sudan and Syria).

**“Sanctioned Person”** means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or to the extent applicable, the United Nations Security Council, the European Union or Her Majesty’s Treasury of the United Kingdom, (b) any Person operating, organized or resident in a Sanctioned Country or (c) any Person owned or controlled by any such Person or Persons described in clauses (a) and (b).

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

**“Second Lien Secured Obligations”** means the “Second Lien Secured Obligations” as defined in the Closing Date Intercreditor Agreement.

**“Secured Obligations”** means the Obligations (as such obligations may be amended, amended and restated, supplemented or otherwise modified from time to time (including any increases of the principal amount outstanding thereunder)), whether direct or indirect, absolute or contingent, and whether for principal, reimbursement obligations, interest, fees, premiums, penalties, indemnifications, contract causes of action, costs, expenses or otherwise.

**“Secured Parties”** means, collectively, the Administrative Agent, the Lenders and each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to Section 9.05.

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

**“Security Agreement”** means a security agreement substantially in the form of Exhibit F.

**“Security Agreement Supplement”** has the meaning set forth in the Security Agreement.

**“Solicited Discount Proration”** has the meaning set forth in Section 2.05(a)(v)(D)(3).

**“Solicited Discounted Prepayment Amount”** has the meaning set forth in Section 2.05(a)(v)(D)(1).

**“Solicited Discounted Prepayment Notice”** means a written notice of the Borrower of Solicited Discounted Prepayment Offers made pursuant to Section 2.05(a)(v)(D) substantially in the form of Exhibit E-6.

**“Solicited Discounted Prepayment Offer”** means the irrevocable written offer by each Lender, substantially in the form of Exhibit E-7, submitted following the Administrative Agent’s receipt of a Solicited Discounted Prepayment Notice.

**“Solicited Discounted Prepayment Response Date”** has the meaning set forth in Section 2.05(a)(v)(D)(1).

**“Solvent”** and **“Solvency”** mean, with respect to any Person on any date of determination, that on such date (i) the sum of the debt (including contingent liabilities) of such Person and its Subsidiaries, taken as a whole, does not exceed the present fair saleable value (on a going concern basis) of the assets of the Person and its Subsidiaries, taken as a whole; (ii) the capital of such Person and its Subsidiaries, taken as a whole, is not unreasonably small in relation to the business of such Person and its Subsidiaries, taken as a whole, contemplated as of the date hereof; and (iii) such Person and its Subsidiaries, taken as a whole, do not intend to incur, or believe that they will incur, debts (including current obligations) beyond

their ability to pay such debt as they mature in the ordinary course of business. For the purposes hereof, the amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability (irrespective of whether such contingent liabilities meet the criteria for accrual under the Financial Accounting Standards Board's Statement of Financial Accounting Standard No. 5).

“**SPC**” has the meaning set forth in Section 10.07(h).

“**Specified Discount**” has the meaning set forth in Section 2.05(a)(v)(B)(1).

“**Specified Discount Prepayment Amount**” has the meaning set forth in Section 2.05(a)(v)(B)(1).

“**Specified Discount Prepayment Notice**” means a written notice of the Borrower Offer of Specified Discount Prepayment made pursuant to Section 2.05(a)(v)(B) substantially in the form of Exhibit E-8.

“**Specified Discount Prepayment Response**” means the irrevocable written response by each Lender, substantially in the form of Exhibit E-9, to a Specified Discount Prepayment Notice.

“**Specified Discount Prepayment Response Date**” has the meaning set forth in Section 2.05(a)(v)(B)(1).

“**Specified Discount Proration**” has the meaning set forth in Section 2.05(a)(v)(B)(3).

“**Specified Junior Financing Obligations**” means any obligations in respect of any Junior Financing in respect of which any Loan Party is an obligor in a principal amount in excess of the Threshold Amount.

“**Specified Representations**” means those representations and warranties made by the Loan Parties in Sections 5.01(a) and (b), Sections 5.02(a) and (b)(i), Section 5.04, Section 5.12, Section 5.16, Section 5.18 and Section 5.19 (in the case of Section 5.19, subject to the proviso at the end of Section 4.01(a)).

“**Specified Transaction**” means any Investment that results in a Person becoming a Restricted Subsidiary, any designation of a Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary, any Permitted Acquisition or any Disposition that results in a Restricted Subsidiary ceasing to be a Subsidiary of Parent, any Investment constituting an acquisition of assets constituting a business unit, line of business or division of, or all or substantially all of the Equity Interests of, another Person or any Disposition of a business unit, line of business or division of Parent or a Restricted Subsidiary and the Amendment Transactions, in each case whether by merger, consolidation, amalgamation or otherwise, or any incurrence or repayment of Indebtedness (other than Indebtedness incurred or repaid under any revolving credit facility or line of credit), Restricted Payment or Incremental Term Loan that by the terms of this Agreement requires such test to be calculated on a “Pro Forma Basis” or after giving “Pro Forma Effect.”

“**Sponsor**” means any of ABRY Partners II, LLC and any of its Affiliates, and funds or partnerships managed or advised by any of them or any of their respective Affiliates but not including, however, any portfolio company of any of the foregoing.

“**Sponsor Model**” shall mean the Sponsor’s financial model dated March 20, 2015, and as supplemented on March 31, 2015, used in connection with the syndication of the Facilities.

“**Statutory Reserves**” means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one *minus* the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Board of Governors of the Federal Reserve System of the United States (the “**Board**”) and any other banking authority, domestic or foreign, to which the Administrative Agent or any Lender (including any branch, Affiliate or other fronting office making or holding a Loan) is subject for Eurocurrency Liabilities (as defined in Regulation D of the Board). Eurocurrency Rate Loans shall be deemed to constitute Eurocurrency Liabilities (as defined in Regulation D of the Board) and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. Statutory Reserves shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

“**Submitted Amount**” has the meaning set forth in Section 2.05(a)(v)(C)(1).

“**Submitted Discount**” has the meaning set forth in Section 2.05(a)(v)(C)(1).

“**Subordinated Debt**” means Indebtedness incurred by a Loan Party that is subordinated in right of payment to the prior payment of all Obligations of such Loan Party under the Loan Documents on terms customary for subordinated high yield notes at the time of incurrence or otherwise reasonably acceptable to the Administrative Agent.

“**Subsidiary**” of a Person means a corporation, partnership, joint venture, limited liability company or other business entity (excluding, for the avoidance of doubt, any charitable organizations, and any other Person that meets the requirements of Section 501(c)(3) of the Code) of which (i) 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, (ii) more than half of the issued share capital is at the time beneficially owned or (iii) 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 Parent (including the Borrower).

“**Subsidiary Guarantor**” means any Guarantor other than the Borrower, Holdings and Parent.

“**Successor Company**” has the meaning set forth in Section 7.04(d).

“**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).

“**Syndication Agent**” means each of Citizens and Macquarie, each in its capacity as a joint syndication agent.

“**Target**” has the meaning set forth in the preliminary statements to this Agreement.

“**Target Person**” has the meaning set forth in Section 7.02.

“**Tax Distribution**” means any distribution made or permitted to be made pursuant to Section 7.06(h)(iii).

“**Tax Group**” has the meaning set forth in Section 7.06(h)(iii).

“**Taxes**” means all present or future taxes, duties, levies, imposts, assessments, withholdings (including backup withholding) or other similar charges imposed by any Governmental Authority including any interest, penalties and additions to tax applicable thereto.

“**Term Commitment**” means, as to each Term Lender, its obligation to make a Term Loan to the Borrower hereunder, expressed as an amount representing the maximum principal amount of the Term Loan to be made by such Term Lender under this Agreement, as such commitment may be (a) reduced from time to time pursuant to Section 2.06 and (b) reduced or increased from time to time pursuant to (i) assignments by or to such Term Lender pursuant to an Assignment and Assumption, (ii) an Incremental Amendment, (iii) a Refinancing Amendment, (iv) an Extension Amendment or (v) the incurrence of Replacement Term Loans. The initial amount of each Term Lender’s Commitment is set forth on Schedule 2.01 under the caption “Initial Term Commitment” or, otherwise, in the Assignment and Assumption, Incremental Amendment, Extension Amendment or Refinancing Amendment pursuant to which such Lender shall have assumed its Commitment, as the case may be.

“**Term Facility**” means (a) prior to the Closing Date, the Initial Term Commitments and (b) thereafter, each Class of Term Loans and/or Term Commitments.

“**Term Lender**” means, at any time, any Lender that has (a) an Initial Term Commitment, Incremental Term Commitment or Refinancing Term Commitment or (b) a Term Loan at such time.

“**Term Loan**” means any Initial Term Loan, Extended Term Loan, Incremental Term Loan, Refinancing Term Loan or Replacement Term Loan, as the context may require.

“**Term Loan Increase**” has the meaning set forth in Section 2.14(a).

“**Test Period**” means, for any date of determination under this Agreement, the four consecutive fiscal quarters of Parent most recently ended as of such date of determination.

“**Threshold Amount**” means \$18,750,000.

“**Total Assets**” means the total assets of Parent and the Restricted Subsidiaries on a consolidated basis in accordance with GAAP, as shown on the most recent balance sheet of Parent delivered pursuant to Section 6.01(a) or (b) or, for the period prior to the time any such statements are so delivered pursuant to Section 6.01(a) or (b), the Pro Forma Financial Statements.

“**Total Outstandings**” means the aggregate Outstanding Amount of all Loans.

“**Transaction Expenses**” means any fees or expenses incurred or paid by Holdings, the Borrower or any of their respective Subsidiaries in connection with the Transactions (including expenses in connection with hedging transactions), this Agreement and the other Loan Documents and the transactions contemplated hereby and thereby.

“**Transactions**” means, collectively, (a) the Acquisition and other related transactions contemplated by the Acquisition Agreement, (b) the funding of the Initial Term Loans on the Closing Date and the execution and delivery of the Loan Documents to be entered into on the Closing Date, (c) the funding of the First Lien Term Loans and the initial borrowing of Revolving Credit Loans under the First Lien Credit Agreement on the Closing Date and the execution and delivery of the First Lien Loan Documents to be entered into on the Closing Date, (d) the Refinancing and (e) the payment of Transaction Expenses earned, due and payable on the Closing Date.

“**Transferred Guarantor**” has the meaning set forth in Section 11.09.

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

“**Uniform Commercial Code**” or “**UCC**” means (i) the Uniform Commercial Code as the same may from time to time be in effect in the State of New York or (ii) the Uniform Commercial Code (or similar code or statute) of another jurisdiction, to the extent it applies to any item or items of Collateral. References in this Agreement and the other Loan Documents to specific sections of the Uniform Commercial Code are based on the Uniform Commercial Code as in effect in the State of New York on the date hereof. In the event such Uniform Commercial Code is amended or another Uniform Commercial Code described in clause (ii) is applicable, such Section reference shall be deemed to be references to the comparable Section in such amended or other Uniform Commercial Code.

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

“**United States Tax Compliance Certificate**” has the meaning set forth in Section 3.01(e)(ii)(C) and is in substantially the form of Exhibit H hereto.

“**Unrestricted Subsidiary**” means any Subsidiary of Parent (other than the Borrower) designated by Parent as an Unrestricted Subsidiary pursuant to Section 6.14 subsequent to the Closing Date.

“**Upfront Fee**” has the meaning set forth in Section 2.09(c).

“**USA Patriot Act**” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56.

**“Weighted Average Life to Maturity”** means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (i) the sum of the products obtained by multiplying (a) 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 (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (ii) the then outstanding principal amount of such Indebtedness.

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

**“WMS”** means Wireless Maritime Services, LLC, a Delaware limited liability company.

**“WMS LLC Agreement”** means that certain Limited Liability Company Agreement of WMS between AT&T Wireless Services, Inc. and MTN, dated as of February 19, 2004 (as amended, restated, amended and restated, supplemented, or otherwise modified and in effect as of the date hereof).

**“Write-Down and Conversion Powers”** means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

**SECTION 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 meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.
- (b) The words “herein,” “hereto,” “hereof” and “hereunder” and words of similar import when used in any Loan Document shall refer to such Loan Document as a whole and not to any particular provision thereof.
- (c) Article, Section, Exhibit and Schedule references are to the Loan Document in which such reference appears.
- (d) The term “including” is by way of example and not limitation.
- (e) 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.”
- (f) 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.
- (g) For purposes of determining compliance with any Section of Article 7 at any time, in the event that any Lien, Investment, Indebtedness, Disposition, Restricted Payment, Affiliate transaction, Contractual Obligation or prepayment of Indebtedness meets the criteria of one or more than one of the categories of transactions permitted pursuant to any clause of such Sections, such transaction

(or portion thereof) at any time shall be permitted under one or more of such clauses as determined by Parent in its sole discretion at such time.

(h) All references to “knowledge” of any Loan Party or a Restricted Subsidiary of Parent means the actual knowledge of a Responsible Officer.

(i) The words “asset” and “property” shall be construed as having 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.

(j) All references to any Person shall be constructed to include such Person’s successors and assigns (subject to any restriction on assignment set forth herein) and, in the case of any Governmental Authority, any other Governmental Authority that shall have succeeded to any or all of the functions thereof.

(k) The word “will” shall be construed to have the same meaning and effect as the word “shall.”

**SECTION 1.03 Accounting Terms.** 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, except as otherwise specifically prescribed herein. Notwithstanding any other provision contained herein, (a) any lease that is treated as an operating lease for purposes of GAAP as of the date hereof shall not be treated as Indebtedness, Attributable Indebtedness or as a Capitalized Lease and shall continue to be treated as an operating lease (and any future lease, if it were in effect on the date hereof, that would be treated as an operating lease for purposes of GAAP as of the date hereof shall be treated as an operating lease), in each case for purposes of this Agreement, notwithstanding any actual or proposed change in GAAP after the date hereof and (b) 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 (i) Statement of Financial Accounting Standards 141R or ASC 805 (or any other financial accounting standard having a similar result or effect) or (ii) any election under Financial Accounting Standards Codification No. 825—Financial Instruments, or any successor thereto (including pursuant to the Accounting Standards Codification), to value any Indebtedness of Parent, the Borrower or any Subsidiary at “fair value” as defined therein.

**SECTION 1.04 Rounding.** Any financial ratios required to be maintained by Parent pursuant to this Agreement (or required to be satisfied in order for a specific action to be permitted under 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).

**SECTION 1.05 References to Agreements, Laws, Etc.** Unless otherwise expressly provided herein, (a) references to Organization Documents, agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all subsequent amendments, refinancings, restatements, renewals, restructurings, extensions, supplements and other modifications thereto, but only to the extent that such amendments, refinancings, restatements, renewals, restructurings, extensions, supplements and other modifications are not prohibited by the Loan Documents; and (b) references to any

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Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

**SECTION 1.06 Times of Day** Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

**SECTION 1.07 Timing of Payment or Performance** When the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment (other than as described in the definition of “Interest Period”) or performance shall extend to the immediately succeeding Business Day.

**SECTION 1.08 Cumulative Credit Transactions** If more than one action occurs on any given date the permissibility of the taking of which is determined hereunder by reference to the amount of the Cumulative Credit immediately prior to the taking of such action, the permissibility of the taking of each such action shall be determined independently and in no event may any two or more such actions be treated as occurring simultaneously.

**SECTION 1.09 Pro Forma Calculations**

(a) Notwithstanding anything to the contrary herein, for purposes of determining compliance with any test contained in this Agreement, the Consolidated Total Net Leverage Ratio, the Consolidated First Lien Net Leverage Ratio, Consolidated EBITDA and Total Assets shall be calculated on a pro forma basis to give effect to all Specified Transactions that have been made during the applicable period of measurement or subsequent to such period and prior to or simultaneously with the event for which the calculation is made in the manner prescribed by this Section 1.09; provided that notwithstanding anything to the contrary in Section 1.09(b), (c) or (d), when (x) calculating the Consolidated First Lien Net Leverage Ratio for purposes of the definition of “Applicable ECF Percentage” or (y) calculating the Consolidated Total Net Leverage Ratio for purposes of (i) the definition of “Applicable ECF Percentage” and (ii) determining actual compliance (and not compliance on a Pro Forma Basis) with any covenant pursuant to Section 7.11, the events described in this Section 1.09 that occurred subsequent to the end of the applicable Test Period shall not be given *pro forma* effect. In addition, whenever a financial ratio or test is to be calculated on a *pro forma* basis, the reference to the “Test Period” for purposes of calculating such financial ratio or test shall be deemed to be a reference to, and shall be based on, the most recently ended Test Period for which internal financial statements of Parent are available (as determined in good faith by Parent); provided that, the provisions of this sentence shall not apply for purposes of calculating the Consolidated First Lien Net Leverage Ratio or the Consolidated Total Net Leverage Ratio for purposes of the definition of “Applicable ECF Percentage” and determining actual compliance with Section 7.11 (other than for the purpose of determining *pro forma* compliance with Section 7.11), as applicable, each of which shall be based on the financial statements delivered pursuant to Section 6.01(a) or (b), as applicable, for the relevant Test Period.

(b) For purposes of calculating any financial ratio or test (including Consolidated Total Net Leverage Ratio, Consolidated First Lien Net Leverage Ratio, Consolidated Senior Secured Net Leverage Ratio, Consolidated EBITDA and Total Assets), Specified Transactions (with any incurrence or repayment of any Indebtedness in connection therewith to be subject to Section 1.09(d)) that have been made (i) during the applicable Test Period and (ii) if applicable as described in Section 1.09(a), subsequent to such Test Period and prior to or simultaneously with the event for which the calculation of any such ratio or test is made shall be calculated on a *pro forma* basis assuming that all such Specified Transactions (and any increase or decrease in Consolidated EBITDA and the component financial definitions used therein attributable to any Specified Transaction) had occurred on the first day (or, in case

of the determination of Total Assets, the last day) of the applicable Test Period. If since the beginning of any applicable Test Period any Person that subsequently became a Restricted Subsidiary or was merged, amalgamated or consolidated with or into Parent or any of its Restricted Subsidiaries since the beginning of such Test Period shall have made any Specified Transaction that would have required

adjustment pursuant to this Section 1.09, then such financial ratio or test (and Consolidated EBITDA and Total Assets) shall be calculated to give *pro forma* effect thereto in accordance with this Section 1.09.

(c) Whenever *pro forma* effect is to be given to a Specified Transaction, the *pro forma* calculations shall be made in good faith by a responsible financial or accounting officer of Parent and include, for the avoidance of doubt, the amount of “run-rate” cost savings, operating expense reductions and synergies projected by Parent in good faith to be realized as a result of specified actions taken or expected to be taken (calculated on a *pro forma* basis as though such cost savings, operating expense reductions and synergies had been realized on the first day of such period and as if such cost savings, operating expense reductions and synergies were realized during the entirety of such period) and “run-rate” means the full recurring benefit for a period that is associated with any action taken, committed to be taken or expected to be taken (including any savings expected to result from the elimination of a public target’s compliance costs with public company requirements) net of the amount of actual benefits realized during such period from such actions, and any such adjustments shall be included in the initial *pro forma* calculations of such financial ratios or tests and during any subsequent Test Period in which the effects thereof are expected to be realized relating to such Specified Transaction; provided that (i) such amounts are (A) reasonably supportable and quantifiable in the good faith judgment of Parent, (B) reasonably anticipated to be realized not later than eighteen (18) months after the date of such Specified Transaction, and (C) no amounts shall be added pursuant to this Section 1.09(c) to the extent duplicative of any amounts that are otherwise added back in computing Consolidated EBITDA, whether through a *pro forma* adjustment or otherwise, with respect to such period; and (ii) the aggregate adjustments pursuant to this Section 1.09(c) (plus any add-backs pursuant to clause (a)(vii)(B) of the definition of “Consolidated EBITDA” but excluding any adjustments consistent with Article 11 of Regulation S-X promulgated under the Securities Act and as interpreted by the staff of the SEC) (i) for the Test Period ending June 30, 2016 and the Test Period ending September 30, 2016, shall not exceed 30% of Consolidated EBITDA for such Test Period (calculated after giving effect to any such add-backs or adjustments) and (ii) the Test Period ending December 31, 2016, and each Test Period thereafter, shall not exceed 20% of Consolidated EBITDA for such Test Period (calculated after giving effect to any such add-backs or adjustments).

(d) In the event that Parent or any Restricted Subsidiary incurs (including by assumption or guarantees) or repays (including by redemption, repayment, retirement or extinguishment) any Indebtedness included in the calculations of any financial ratio or test (in each case, other than Indebtedness incurred or repaid under any revolving credit facility), (i) during the applicable Test Period or (ii) subject to Section 1.09(a) subsequent to the end of the applicable Test Period and prior to or simultaneously with the event for which the calculation of any such ratio is made, then such financial ratio or test shall be calculated giving *pro forma* effect to such incurrence or repayment of Indebtedness, to the extent required, as if the same had occurred on the last day of the applicable Test Period.

**SECTION 1.10 Currency Generally.** For purposes of determining compliance with Article 7 with respect to any amount of Indebtedness, Lien or Investment in a currency other than Dollars, no Default or Event of Default shall be deemed to have occurred solely as a result of changes in rates of currency exchange occurring after the time such Indebtedness or Investment is incurred (so long as such Indebtedness or Investment, at the time incurred, made or acquired, was permitted hereunder).

**SECTION 1.11 Certifications.** All certifications to be made hereunder by an officer or representative of a Loan Party shall be made by such person in his or her capacity solely as an officer or a representative of such Loan Party, on such Loan Party's behalf and not in such Person's individual capacity.

**SECTION 1.12 Limited Condition Acquisition.** Notwithstanding anything to the contrary in this Agreement, for purposes of (i) determining compliance with any provision of this Agreement that requires the calculation of the Consolidated First Lien Net Leverage Ratio, the Consolidated Senior Secured Net Leverage Ratio or the Consolidated Total Net Leverage Ratio, (ii) determining compliance with representations, warranties, defaults or events of default or (iii) testing availability under baskets set forth herein (including baskets measured as a percentage of LTM EBITDA or Consolidated EBITDA) (including, in each case with respect to the incurrence of debt under an Incremental Facility incurred in connection therewith), in each case, in connection with a Permitted Acquisition or Investment by one or more of Parent and its Restricted Subsidiaries, in each case whose consummation is not conditioned on the availability of, or on obtaining, third party financing (any such acquisition, a "**Limited Condition Acquisition**"), at the irrevocable option of Parent (Parent's election to exercise such option in connection with any Limited Condition Acquisition, an "**LCA Election**"), the date of determination of whether any such Limited Condition Acquisition is permitted hereunder, shall be deemed to be the date the definitive agreements for such Limited Condition Acquisition are entered into (the "**LCA Test Date**"), and if, after giving pro forma effect to the Limited Condition Acquisition and the other transactions to be entered into in connection therewith as if they had occurred at the beginning of the most recent test period ending prior to the LCA Test Date, Parent could have taken such action on the relevant LCA Test Date in compliance with such ratio or basket, such ratio or basket shall be deemed to have been complied with for such Limited Condition Acquisition.

For the avoidance of doubt, if Parent has made an LCA Election and any of the ratios or baskets for which compliance was determined or tested as of the LCA Test Date (including with respect to the incurrence of any Indebtedness) are exceeded as a result of fluctuations in any such ratio or basket (including due to fluctuations of the target of any Limited Condition Acquisition) at or prior to the consummation of the relevant transaction or action, such baskets or ratios will not be deemed to have been exceeded as a result of such fluctuations. If Parent has made an LCA Election for any Limited Condition Acquisition, then in connection with any subsequent calculation of any ratio or basket (other than maintenance testing of the financial covenant in Section 7.11) on or following the relevant LCA Test Date and prior to the earlier of (i) the date on which such Limited Condition Acquisition is consummated or (ii) the date that the definitive agreement for such Limited Condition Acquisition is terminated or expires without consummation of such Limited Condition Acquisition, any such ratio or basket shall be calculated on a pro forma basis assuming such Limited Condition Acquisition and other transactions in connection therewith (including any incurrence of debt and the use of proceeds thereof) have been consummated.

Notwithstanding anything to the contrary herein, with respect to any amounts incurred or transactions entered into (or consummated) in reliance on a provision of this Agreement that does not require compliance with a financial ratio or test (including, without limitation, pro forma compliance with Section 7.11 hereof, any Consolidated First Lien Net Leverage Ratio test, any Consolidated Senior Secured Net Leverage Ratio test and/or any Consolidated Total Net Leverage Ratio test) (any such amounts, the "**Fixed Amounts**") substantially concurrently with any amounts incurred or transactions entered into (or consummated) in reliance on a provision of this Agreement that requires compliance with any such financial ratio or test (any such amounts, the "**Incurrence Based Amounts**"), it is understood and agreed that the Fixed Amounts shall be disregarded in the calculation of the financial ratio or test applicable to the Incurrence-Based Amounts in connection with such substantially concurrent incurrence.

**ARTICLE 2**  
**THE COMMITMENTS AND BORROWINGS**

**SECTION 2.01 The Loans.** Subject to the terms and conditions expressly set forth herein, each Term Lender severally agrees to make to the Borrower on the Closing Date one or more Borrowings of Initial Term Loans denominated in Dollars in an aggregate amount not to exceed at any time outstanding the amount of such Term Lender's Initial Term Commitment. Amounts borrowed under this Section 2.01 and repaid or prepaid may not be re-borrowed. Term Loans may be Base Rate Loans or Eurocurrency Rate Loans, as further provided herein.

**SECTION 2.02 Borrowings, Conversions and Continuations of Loans.**

(a) Each Borrowing, each conversion of Term Loans from one Type to the other, and each continuation of Eurocurrency 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 (1) 12:00 noon, three Business Days prior to the requested date of any Borrowing or continuation of Eurocurrency Rate Loans or any conversion of Base Rate Loans to Eurocurrency Rate Loans, and (2) 10:00 a.m. New York City time on the requested date of any Borrowing of Base Rate Loans; provided that the notice referred to in clause (1) above may be delivered no later than one Business Day prior to the Closing Date in the case of initial Borrowings. Each telephonic notice by the Borrower pursuant to this Section 2.02(a) must be confirmed promptly by delivery (including via email) to the Administrative Agent of a written Committed Loan Notice (and will not be effective until so confirmed), appropriately completed and signed by a Responsible Officer of the Borrower. Except as otherwise provided in Section 2.14, each Borrowing of, conversion to or continuation of Eurocurrency Rate Loans shall be in a minimum principal amount of \$500,000, or a whole multiple of \$100,000, in excess thereof. Except as provided in herein, each Borrowing of or conversion to Base Rate Loans shall be in a minimum principal amount of \$250,000 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, a conversion of Term Loans from one Type to the other or a continuation of Eurocurrency Rate Loans, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Loans to be borrowed, converted or continued, (iv) the Type of Loans to be borrowed or to which existing Term Loans are to be converted or continued, (v) if applicable, the duration of the Interest Period with respect thereto and (vi) wire instructions of the account(s) to which funds are to be disbursed (it being understood, for the avoidance of doubt, that the amount to be disbursed to any particular account may be less than the minimum or multiple limitations set forth above so long as the aggregate amount to be disbursed to all such accounts pursuant to such Borrowing meets such minimums and multiples). If the Borrower fails to specify a Type of Loan in a Committed Loan Notice or fails to give a timely notice requesting a conversion or continuation, then the applicable Term Loans shall be made as, or converted to, Base Rate Loans. Any such automatic conversion to Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurocurrency Rate Loans. If the Borrower requests a Borrowing of, conversion to, or continuation of Eurocurrency 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.

(b) Following receipt of a Committed Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Pro Rata Share or other applicable share provided for under this Agreement 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 continuation described in Section 2.02(a). In the case of each Borrowing, each Appropriate Lender shall make the amount of its Loan available to the Administrative Agent in Same Day Funds at the Administrative Agent's Office not later than 2:00 p.m. New York City time on the Business Day specified in the applicable Committed Loan Notice. 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(s) 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 by the Borrower to (and reasonably acceptable to) the Administrative Agent.

(c) Except as otherwise provided herein, a Eurocurrency Rate Loan may be continued or converted only on the last day of an Interest Period for such Eurocurrency Rate Loan, unless the Borrower pays the amount due, if any, under Section 3.05 in connection therewith. During the occurrence and continuation of an Event of Default, the Administrative Agent or the Required Lenders may require that no Loans may be converted to or continued as Eurocurrency Rate Loans.

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

(e) After giving effect to all Borrowings, all conversions of Term Loans from one Type to the other, and all continuations of Term Loans as the same Type, there shall not be more than 10 (or such greater amount as may be agreed by the Administrative Agent in its sole discretion) Interest Periods in effect; provided that after the establishment of any new Class of Loans pursuant to a Refinancing Amendment or Extension Amendment, the number of Interest Periods otherwise permitted by this Section 2.02(e) shall increase by three Interest Periods for each applicable Class so established.

(f) The failure of any Lender to make the Loan to be made by it as part of any Borrowing shall not relieve any other Lender of its obligation, if any, hereunder to make its Loan on the date of such Borrowing, but no Lender shall be responsible for the failure of any other Lender to make the Loan to be made by such other Lender on the date of any Borrowing.

(g) Unless the Administrative Agent shall have received notice from a Lender prior to the date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's Pro Rata Share or other applicable share provided for under this Agreement of such Borrowing, the Administrative Agent may assume that such Lender has made such Pro Rata Share or other applicable share provided for under this Agreement available to the Administrative Agent on the date of such Borrowing in accordance with Section 2.02(b) above, and the Administrative Agent may, in reliance upon such assumption, make available to the Borrower on such date a corresponding amount. If the Administrative Agent shall have so made funds available, then, to the extent that such Lender shall not have made such portion available to the Administrative Agent, each of such Lender and the Borrower severally agrees to repay to the Administrative Agent promptly after written demand such corresponding amount together with interest thereon, for each day from the date such amount is made available to the Borrower until the date such amount is repaid to the Administrative Agent at (i) in the case of the Borrower, the interest rate applicable at the time to the Loans comprising such Borrowing and (ii) in the case of such Lender, the Overnight Rate *plus* any administrative, processing, or similar fees customarily charged by the Administrative Agent in accordance with the foregoing. A certificate of the Administrative

Agent submitted to any Lender with respect to any amounts owing under this Section 2.02(g) shall be conclusive in the absence of manifest error. 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.

**SECTION 2.03 [Reserved].**

**SECTION 2.04 [Reserved].**

**SECTION 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 Class or Classes of Term Loans in whole or in part without premium or penalty (except as expressly set forth in Section 2.09(d)); provided that (1) such notice must be received by the Administrative Agent not later than 11:00 a.m. New York City time (A) three Business Days prior to any date of prepayment of Eurocurrency Rate Loans and (B) on the date of prepayment of Base Rate Loans; (2) any prepayment of Eurocurrency Rate Loans shall be in a minimum principal amount of \$500,000, or a whole multiple of \$100,000 in excess thereof; and (3) any prepayment of Base Rate Loans shall be in a minimum principal amount of \$250,000 or a whole multiple of \$100,000 in excess thereof or, in each case, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment and the Class(es) and Type(s) of Loans to be prepaid. The Administrative Agent will promptly notify each Appropriate Lender of its receipt of each such notice, and of the amount of such Lender's Pro Rata Share or other applicable share provided for under this Agreement of such prepayment. If such notice is given by the Borrower, unless rescinded pursuant to clause (iii) below, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of a Eurocurrency Rate Loan shall be accompanied by all accrued interest thereon, together with any additional amounts required pursuant to Section 3.05. In the case of each prepayment of the Loans pursuant to this Section 2.05(a), the Borrower may in its sole discretion select the Borrowing or Borrowings (and the order of maturity of principal payments) to be repaid, and such payment shall be paid to the Appropriate Lenders in accordance with their respective Pro Rata Shares or other applicable share provided for under this Agreement.

(ii) [Reserved].

(ii) Notwithstanding anything to the contrary contained in this Agreement, the Borrower may rescind any notice of prepayment under Section 2.05(a)(i) by notice to the Administrative Agent if such prepayment would have resulted from a refinancing of all or any portion of the applicable Class or occurrence of another event, which refinancing or event shall not be consummated or shall otherwise be delayed.

(iv) [Reserved].

(v) Notwithstanding anything in any Loan Document to the contrary, in addition to the terms set forth in Sections 2.05(a)(i) and 10.07, so long as no Event of Default has occurred and is continuing, any Company Party may prepay the outstanding Term Loans (which

shall, for the avoidance of doubt, be automatically and permanently canceled immediately upon such prepayment) (or Parent or any of its Subsidiaries may purchase such outstanding Loans and immediately cancel them) without premium or penalty on the following basis:

(A) Any Company Party shall have the right to make a voluntary prepayment of Term Loans at a discount to par pursuant to a Borrower Offer of Specified Discount Prepayment, Borrower Solicitation of Discount Range Prepayment Offers or Borrower Solicitation of Discounted Prepayment Offers (any such prepayment, the “**Discounted Term Loan Prepayment**”), in each case made in accordance with this Section 2.05(a)(v) and without premium or penalty (except as provided in Section 2.09(d)).

(B) (1) Any Company Party may from time to time offer to make a Discounted Term Loan Prepayment by providing the Auction Agent with five Business Days’ notice in the form of a Specified Discount Prepayment Notice (or such shorter period as agreed by the Auction Agent); provided that (I) any such offer shall be made available, at the sole discretion of the Company Party, to (x) each Term Lender and/or (y) each Term Lender with respect to any Class of Term Loans on an individual tranche basis, (II) any such offer shall specify the aggregate principal amount offered to be prepaid (the “**Specified Discount Prepayment Amount**”) with respect to each applicable tranche, the tranche or tranches of Term Loans subject to such offer and the specific percentage discount to par (the “**Specified Discount**”) of such Term Loans to be prepaid (it being understood that different Specified Discounts and/or Specified Discount Prepayment Amounts may be offered with respect to different tranches of Term Loans and, in such event, each such offer will be treated as a separate offer pursuant to the terms of this Section 2.05(a)(v)(B)), (III) the Specified Discount Prepayment Amount shall be in an aggregate amount not less than \$5,000,000 and whole increments of \$1,000,000 in excess thereof and (IV) unless rescinded, each such offer shall remain outstanding through the Specified Discount Prepayment Response Date. The Auction Agent will promptly provide each Appropriate Lender with a copy of such Specified Discount Prepayment Notice and a form of the Specified Discount Prepayment Response to be completed and returned by each such Term Lender to the Auction Agent (or its delegate) by no later than 5:00 p.m. New York City time on the third Business Day after the date of delivery of such notice to such Lenders (or such later date specified therein) (the “**Specified Discount Prepayment Response Date**”).

(2) Each Term Lender receiving such offer shall notify the Auction Agent (or its delegate) by the Specified Discount Prepayment Response Date whether or not it agrees to accept a prepayment of any of its applicable then outstanding Term Loans at the Specified Discount and, if so (such accepting Lender, a “**Discount Prepayment Accepting Lender**”), the amount and the tranches of such Lender’s Term Loans to be prepaid at such offered discount. Each acceptance of a Discounted Term Loan Prepayment by a Discount Prepayment Accepting Lender shall be irrevocable. Any Term Lender whose Specified Discount Prepayment Response is not received by the Auction Agent by the Specified Discount Prepayment Response Date shall be deemed to have declined to accept the applicable Borrower Offer of Specified Discount Prepayment.

(3) If there is at least one Discount Prepayment Accepting Lender, the relevant Company Party will make a prepayment of outstanding Term Loans pursuant to this Section 2.05(a)(v)(B) to each Discount Prepayment Accepting Lender in accordance with the respective outstanding amount and tranches of Term Loans specified in such Lender’s Specified Discount Prepayment Response given pursuant to clause (2) above; provided that, if the aggregate principal amount of Term Loans accepted for prepayment by all Discount Prepayment Accepting

Lenders exceeds the Specified Discount Prepayment Amount, such prepayment shall be made *pro rata* among the Discount Prepayment Accepting Lenders in accordance with the respective principal amounts accepted to be prepaid by each such Discount Prepayment Accepting Lender and the Auction Agent (with the consent of such Company Party and subject to rounding requirements of the Auction Agent made in its reasonable discretion) will calculate such proration (the “**Specified Discount Proration**”). The Auction Agent shall promptly, and in any case within three Business Days following the Specified Discount Prepayment Response Date, notify (I) the relevant Company Party of the respective Term Lenders’ responses to such offer, the Discounted Prepayment Effective Date and the aggregate principal amount of the Discounted Term Loan Prepayment and the tranches to be prepaid, (II) each Term Lender of the Discounted Prepayment Effective Date, and the aggregate principal amount and the tranches of Term Loans to be prepaid at the Specified Discount on such date and (III) each Discount Prepayment Accepting Lender of the Specified Discount Proration, if any, and confirmation of the principal amount, tranche and Type of Term Loans of such Lender to be prepaid at the Specified Discount on such date. Each determination by the Auction Agent of the amounts stated in the foregoing notices to the Company Party and such Term Lenders shall be conclusive and binding for all purposes absent manifest error. The payment amount specified in such notice to the Company Party shall be due and payable by such Company Party on the Discounted Prepayment Effective Date in accordance with Section 2.05(a)(v)(F) below (subject to Section 2.05(a)(v)(J) below).

(C) (1) Any Company Party may from time to time solicit Discount Range Prepayment Offers by providing the Auction Agent with five Business Days’ notice in the form of a Discount Range Prepayment Notice (or such shorter period as agreed by the Auction Agent); provided that (I) any such solicitation shall be extended, at the sole discretion of such Company Party, to (x) each Term Lender and/or (y) each Term Lender with respect to any Class of Term Loans on an individual tranche basis, (II) any such notice shall specify the maximum aggregate principal amount of the relevant Term Loans (the “**Discount Range Prepayment Amount**”), the tranche or tranches of Term Loans subject to such offer and the maximum and minimum percentage discounts to par (the “**Discount Range**”) of the principal amount of such Term Loans with respect to each relevant tranche of Term Loans willing to be prepaid by such Company Party (it being understood that different Discount Ranges and/or Discount Range Prepayment Amounts may be offered with respect to different tranches of Term Loans and, in such event, each such offer will be treated as separate offer pursuant to the terms of this Section 2.05(a)(v)(C)), (III) the Discount Range Prepayment Amount shall be in an aggregate amount not less than \$5,000,000 and whole increments of \$1,000,000 in excess thereof and (IV) unless rescinded, each such solicitation by a Company Party shall remain outstanding through the Discount Range Prepayment Response Date. The Auction Agent will promptly provide each Appropriate Lender with a copy of such Discount Range Prepayment Notice and a form of the Discount Range Prepayment Offer to be submitted by a responding Lender to the Auction Agent (or its delegate) by no later than 5:00 p.m. New York City time on the third Business Day after the date of delivery of such notice to such Lenders (or such later date specified therein) (the “**Discount Range Prepayment Response Date**”). Each Term Lender’s Discount Range Prepayment Offer shall be irrevocable and shall specify a discount to par within the Discount Range (the “**Submitted Discount**”) at which such Lender is willing to allow prepayment of any or all of its then outstanding Term Loans of the applicable tranche or tranches and the maximum aggregate principal amount and tranches of such Lender’s Term Loans (the “**Submitted Amount**”) such Term Lender is willing to have prepaid at the Submitted Discount. Any Term Lender whose Discount Range Prepayment Offer is not received by the Auction Agent by the Discount Range Prepayment Response Date shall be deemed to have declined to accept a Discounted Term Loan Prepayment of any of its Term Loans at any discount to their par value within the Discount Range.

(2) The Auction Agent shall review all Discount Range Prepayment Offers received on or before the applicable Discount Range Prepayment Response Date and shall determine (with the consent of such Company Party and subject to rounding requirements of the Auction Agent made in its sole reasonable discretion) the Applicable Discount and Term Loans to be prepaid at such Applicable Discount in accordance with this Section 2.05(a)(v)(C). The relevant Company Party agrees to accept on the Discount Range Prepayment Response Date all Discount Range Prepayment Offers received by Auction Agent by the Discount Range Prepayment Response Date, in the order from the Submitted Discount that is the largest discount to par to the Submitted Discount that is the smallest discount to par, up to and including the Submitted Discount that is the smallest discount to par within the Discount Range (such Submitted Discount that is the smallest discount to par within the Discount Range being referred to as the “**Applicable Discount**”) which yields a Discounted Term Loan Prepayment in an aggregate principal amount equal to the lower of (I) the Discount Range Prepayment Amount and (II) the sum of all Submitted Amounts. Each Term Lender that has submitted a Discount Range Prepayment Offer to accept prepayment at a discount to par that is larger than or equal to the Applicable Discount shall be deemed to have irrevocably consented to prepayment of Term Loans equal to its Submitted Amount (subject to any required proration pursuant to the following clause (3)) at the Applicable Discount (each such Term Lender, a “**Participating Lender**”).

(3) If there is at least one Participating Lender, the relevant Company Party will prepay the respective outstanding Term Loans of each Participating Lender in the aggregate principal amount and of the tranches specified in such Lender’s Discount Range Prepayment Offer at the Applicable Discount; provided that if the Submitted Amount by all Participating Lenders offered at a discount to par greater than the Applicable Discount exceeds the Discount Range Prepayment Amount, prepayment of the principal amount of the relevant Term Loans for those Participating Lenders whose Submitted Discount is a discount to par greater than or equal to the Applicable Discount (the “**Identified Participating Lenders**”) shall be made *pro rata* among the Identified Participating Lenders in accordance with the Submitted Amount of each such Identified Participating Lender and the Auction Agent (with the consent of such Company Party and subject to rounding requirements of the Auction Agent made in its sole reasonable discretion) will calculate such proration (the “**Discount Range Proration**”). The Auction Agent shall promptly, and in any case within five Business Days following the Discount Range Prepayment Response Date, notify (I) the relevant Company Party of the respective Term Lenders’ responses to such solicitation, the Discounted Prepayment Effective Date, the Applicable Discount, and the aggregate principal amount of the Discounted Term Loan Prepayment and the tranches to be prepaid, (II) each Term Lender of the Discounted Prepayment Effective Date, the Applicable Discount, and the aggregate principal amount and tranches of Term Loans to be prepaid at the Applicable Discount on such date, (III) each Participating Lender of the aggregate principal amount and tranches of such Term Lender to be prepaid at the Applicable Discount on such date, and (IV) if applicable, each Identified Participating Lender of the Discount Range Proration. Each determination by the Auction Agent of the amounts stated in the foregoing notices to the relevant Company Party and Term Lenders shall be conclusive and binding for all purposes absent manifest error. The payment amount specified in such notice to the Company Party shall be due and payable by such Company Party on the Discounted Prepayment Effective Date in accordance with Section 2.05(a)(v)(F) below (subject to Section 2.05(a)(v)(J) below).

(D) (1) Any Company Party may from time to time solicit Solicited Discounted Prepayment Offers by providing the Auction Agent with five Business Days’ notice in the form of a Solicited Discounted Prepayment Notice (or such later notice specified therein); provided that (I) any such solicitation shall be extended, at the sole discretion of such Company

Party, to (x) each Term Lender and/or (y) each Lender with respect to any Class of Term Loans on an individual tranche basis, (II) any such notice shall specify the maximum aggregate amount of the Term Loans (the “**Solicited Discounted Prepayment Amount**”) and the tranche or tranches of Term Loans the Borrower is willing to prepay at a discount (it being understood that different Solicited Discounted Prepayment Amounts may be offered with respect to different tranches of Term Loans and, in such event, each such offer will be treated as separate offer pursuant to the terms of this Section 2.05(a)(v)(D)), (III) the Solicited Discounted Prepayment Amount shall be in an aggregate amount not less than \$5,000,000 and whole increments of \$1,000,000 in excess thereof and (IV) unless rescinded, each such solicitation by a Company Party shall remain outstanding through the Solicited Discounted Prepayment Response Date. The Auction Agent will promptly provide each Appropriate Lender with a copy of such Solicited

Discounted Prepayment Notice and a form of the Solicited Discounted Prepayment Offer to be submitted by a responding Lender to the Auction Agent (or its delegate) by no later than 5:00 p.m. New York City time on the third Business Day after the date of delivery of such notice to such Term Lenders (the “**Solicited Discounted Prepayment Response Date**”). Each Term Lender’s Solicited Discounted Prepayment Offer shall (x) be irrevocable, (y) remain outstanding until the Acceptance Date and (z) specify both a discount to par (the “**Offered Discount**”) at which such Term Lender is willing to allow prepayment of its then outstanding Term Loan and the maximum aggregate principal amount and tranches of such Term Loans (the “**Offered Amount**”) such Term Lender is willing to have prepaid at the Offered Discount. Any Term Lender whose Solicited Discounted Prepayment Offer is not received by the Auction Agent by the Solicited Discounted Prepayment Response Date shall be deemed to have declined prepayment of any of its Term Loans at any discount.

(2) The Auction Agent shall promptly provide the relevant Company Party with a copy of all Solicited Discounted Prepayment Offers received on or before the Solicited Discounted Prepayment Response Date. Such Company Party shall review all such Solicited Discounted Prepayment Offers and select the largest of the Offered Discounts specified by the relevant responding Term Lenders in the Solicited Discounted Prepayment Offers that is acceptable to the Company Party (the “**Acceptable Discount**”), if any. If the Company Party elects to accept any Offered Discount as the Acceptable Discount, then as soon as practicable after the determination of the Acceptable Discount, but in no event later than by the fifth Business Day after the date of receipt by such Company Party from the Auction Agent of a copy of all Solicited Discounted Prepayment Offers pursuant to the first sentence of this clause (2) (the “**Acceptance Date**”), the Company Party shall submit an Acceptance and Prepayment Notice to the Auction Agent setting forth the Acceptable Discount. If the Auction Agent shall fail to receive an Acceptance and Prepayment Notice from the Company Party by the Acceptance Date, such Company Party shall be deemed to have rejected all Solicited Discounted Prepayment Offers.

(3) Based upon the Acceptable Discount and the Solicited Discounted Prepayment Offers received by the Auction Agent by the Solicited Discounted Prepayment Response Date, within five Business Days after receipt of an Acceptance and Prepayment Notice (the “**Discounted Prepayment Determination Date**”), the Auction Agent will determine (with the consent of such Company Party and subject to rounding requirements of the Auction Agent made in its sole reasonable discretion) the aggregate principal amount and the tranches of Term Loans (the “**Acceptable Prepayment Amount**”) to be prepaid by the relevant Company Party at the Acceptable Discount in accordance with this Section 2.05(a)(v)(D). If the Company Party elects to accept any Acceptable Discount, then the Company Party agrees to accept all Solicited Discounted Prepayment Offers received by Auction Agent by the Solicited

Discounted Prepayment Response Date, in the order from largest Offered Discount to smallest Offered Discount, up to and including the Acceptable Discount. Each Term Lender that has submitted a Solicited Discounted Prepayment Offer with an Offered Discount that is greater than or equal to the Acceptable Discount shall be deemed to have irrevocably consented to prepayment of Term Loans equal to its Offered Amount (subject to any required pro-rata reduction pursuant to the following sentence) at the Acceptable Discount (each such Lender, a “**Qualifying Lender**”). The Company Party will prepay outstanding Term Loans pursuant to this Section 2.05(a)(v)(D) to each Qualifying Lender in the aggregate principal amount and of the tranches specified in such Lender’s Solicited Discounted Prepayment Offer at the Acceptable Discount; provided that if the aggregate Offered Amount by all Qualifying Lenders whose Offered Discount is greater than or equal to the Acceptable Discount exceeds the Solicited Discounted Prepayment Amount, prepayment of the principal amount of the Term Loans for those Qualifying Lenders

whose Offered Discount is greater than or equal to the Acceptable Discount (the “**Identified Qualifying Lenders**”) shall be made *pro rata* among the Identified Qualifying Lenders in accordance with the Offered Amount of each such Identified Qualifying Lender and the Auction Agent (with the consent of such Company Party and subject to rounding requirements of the Auction Agent made in its sole reasonable discretion) will calculate such proration (the “**Solicited Discount Proration**”). On or prior to the Discounted Prepayment Determination Date, the Auction Agent shall promptly notify (I) the relevant Company Party of the Discounted Prepayment Effective Date and Acceptable Prepayment Amount comprising the Discounted Term Loan Prepayment and the tranches to be prepaid, (II) each Term Lender of the Discounted Prepayment Effective Date, the Acceptable Discount, and the Acceptable Prepayment Amount of all Term Loans and the tranches to be prepaid at the Applicable Discount on such date, (III) each Qualifying Lender of the aggregate principal amount and the tranches of such Term Lender to be prepaid at the Acceptable Discount on such date, and (IV) if applicable, each Identified Qualifying Lender of the Solicited Discount Proration. Each determination by the Auction Agent of the amounts stated in the foregoing notices to such Company Party and Term Lenders shall be conclusive and binding for all purposes absent manifest error. The payment amount specified in such notice to such Company Party shall be due and payable by such Company Party on the Discounted Prepayment Effective Date in accordance with Section 2.05(a)(v)(F) below (subject to Section 2.05(a)(v)(J) below).

(E) In connection with any Discounted Term Loan Prepayment, the Company Parties and the Term Lenders acknowledge and agree that the Auction Agent may require as a condition to any Discounted Term Loan Prepayment, the payment of customary fees and expenses from a Company Party in connection therewith.

(F) If any Term Loan is prepaid in accordance with Sections 2.05(a)(v)(B) through 2.05(a)(v)(D) above, a Company Party shall prepay such Term Loans on the Discounted Prepayment Effective Date. The relevant Company Party shall make such prepayment to the Administrative Agent, for the account of the Discount Prepayment Accepting Lenders, Participating Lenders, or Qualifying Lenders, as applicable, at the Administrative Agent’s Office in immediately available funds not later than 11:00 a.m. New York City time on the Discounted Prepayment Effective Date and all such prepayments shall be applied to the remaining principal amount of Loans being prepaid. The Term Loans so prepaid shall be accompanied by all accrued and unpaid interest on the par principal amount so prepaid up to, but not including, the Discounted Prepayment Effective Date. Each prepayment of the outstanding Term Loans pursuant to this Section 2.05(a)(v) shall be paid to the Discount Prepayment Accepting Lenders, Participating Lenders, or Qualifying Lenders, as applicable, and shall be

applied to the relevant Loans of such Lenders in accordance with their respective Pro Rata Share. The aggregate principal amount of the tranches and installments of the relevant Term Loans outstanding shall be deemed reduced by the full par value of the aggregate principal amount of the tranches of Term Loans prepaid on the Discounted Prepayment Effective Date in any Discounted Term Loan Prepayment. In connection with each prepayment pursuant to this Section 2.05(a)(v), each Lender participating in any prepayment described in this Section 2.05(a)(v) acknowledges and agrees that in connection therewith, (1) the Borrower or any Company Party then may have, and later may come into possession of, information regarding the Borrower, the Sponsor and their respective affiliates not known to such Lender and that may be material to a decision by such Lender to participate in such prepayment (including Material Non-Public Information) (“**Excluded Information**”), (2) such Lender has independently and, without reliance on the Borrower, any of its Subsidiaries, the Administrative Agent or any of their respective Affiliates, made its own analysis and determination to participate in such prepayment notwithstanding such Lender’s lack of knowledge of the Excluded Information, (3) none of the Company Parties or Sponsor or any of their respective Affiliates shall be required to make any representation that it is not in possession of Excluded Information and all parties to the relevant transaction shall render customary “big boy” disclaimer letters, and (4) none of the Borrower, its Subsidiaries, the Administrative Agent or any of their respective Affiliates shall have any liability to such Lender, and such Lender hereby waives and releases, to the extent permitted by law, any claims such Lender may have against the Borrower, its Subsidiaries, the Administrative Agent and their respective Affiliates, under applicable laws or otherwise, with respect to the nondisclosure of the Excluded Information.

(G) To the extent not expressly provided for herein, each Discounted Term Loan Prepayment shall be consummated pursuant to procedures consistent with the provisions in this Section 2.05(a)(v), established by the Auction Agent acting in its reasonable discretion and as reasonably agreed by the Borrower.

(H) [Reserved].

(I) Each of the Company Parties and the Term Lenders acknowledge and agree that the Auction Agent may perform any and all of its duties under this Section 2.05(a)(v) by itself or through any Affiliate of the Auction Agent and expressly consents to any such delegation of duties by the Auction Agent to such Affiliate and the performance of such delegated duties by such Affiliate. The exculpatory provisions pursuant to this Agreement shall apply to each Affiliate of the Auction Agent and its respective activities in connection with any Discounted Term Loan Prepayment provided for in this Section 2.05(a)(v) as well as activities of the Auction Agent.

(J) Each Company Party shall have the right, by written notice to the Auction Agent, to revoke in full (but not in part) its offer to make a Discounted Term Loan Prepayment and rescind the applicable Specified Discount Prepayment Notice, Discount Range Prepayment Notice or Solicited Discounted Prepayment Notice therefor at its discretion at any time on or prior to the Specified Discount Prepayment Response Date, Discount Range Prepayment Response Date or Solicited Discounted Prepayment Response Date, as applicable (and if such offer is revoked pursuant to the preceding clauses, any failure by such Company Party to make any prepayment to a Lender, as applicable, pursuant to this Section 2.05(a)(v) shall not constitute a Default or Event of Default under Section 8.01 or otherwise).

(vi) In connection with any prepayment pursuant to this Section 2.05(a) that is consummated in respect of all or any portion of the Initial Term Loans prior to the two year

anniversary of the Closing Date, the Borrower shall pay to each Term Lender the fee required by Section 2.09(d).

(b) *Mandatory.*

(i) Subject to Section 2.05(b)(ix), within five Business Days after financial statements are required to have been delivered pursuant to Section 6.01(a) (commencing with the fiscal year ended December 31, 2017) and the related Compliance Certificate is required to have been delivered pursuant to Section 6.02(a), the Borrower shall cause to be prepaid an aggregate principal amount of Term Loans in an amount equal to (A) the Applicable ECF Percentage of Excess Cash Flow, if any, for the fiscal year covered by such financial statements *minus*, without duplication of any amount deducted from Consolidated Net Income in calculating Excess Cash Flow for such period, (B) the sum of (1) all voluntary prepayments of First Lien Term Loans made during such fiscal year pursuant to Section 2.05(a)(v) or (comparable section) of the First Lien Credit Agreement and Term Loans made during such fiscal year pursuant to Section 2.05(a)(v), in each case, in an amount equal to the discounted amount actually paid in cash in respect of the principal amount of First Lien Term Loans or such Term Loans, as the case may be, during such fiscal year or, without duplication across periods, after year-end and prior to when such Excess Cash Flow prepayment is due, (2) all other voluntary prepayments of First Lien Term Loans made during such fiscal year pursuant to Section 2.05(a) (or any comparable section) of the First Lien Credit Agreement and Term Loans made pursuant to Section 2.05(a) during such fiscal year or, without duplication across periods, after year-end and prior to when such Excess Cash Flow prepayment is due, (3) all voluntary prepayments of Revolving Credit Loans, Extended Revolving Credit Loans, Refinancing Revolving Credit Loans and Incremental Revolving Loans during such fiscal year or, without duplication across periods, after year-end and prior to when such Excess Cash Flow prepayment is due, to the extent the Revolving Credit Commitments, Extended Revolving Credit Commitments, Refinancing Revolving Credit Commitments and/or Incremental Revolving Credit Commitments, as the case may be, are permanently reduced by the amount of such payments and (4) the amount equal to all payments in cash paid by the Borrower in connection with the buyback of Term Loans pursuant to Section 10.07(l)(x) and First Lien Term Loans pursuant to Section 10.07(l)(x) (or any comparable section) of the First Lien Credit Agreement, during such fiscal year or, without duplication across periods, after year-end and prior to when such Excess Cash Flow prepayment is due and (5) all voluntary prepayments of Revolving Credit Loans (if any) incurred on the Closing Date to finance any upfront fees implemented pursuant to the “market flex” provisions of the Fee Letter, in the case of each of the immediately preceding clauses (1), (2), (3), (4) and (5), except to the extent such prepayments are funded with long-term Indebtedness (other than Revolving Credit Loans); provided that, to the extent any deduction is made pursuant to the foregoing clauses (1), (2), (3) and (4) after year-end and prior to when such Excess Cash Flow prepayment is due, such prepayment shall not be deducted with respect to the Excess Cash Flow prepayment for the succeeding fiscal year.

(ii) Subject to Section 2.05(b)(ix), if (1) the Borrower, Parent or any Restricted Subsidiary Disposes of any property or assets (other than any Disposition of any property or assets permitted by Sections 7.05(a), (b), (c), (d), (e), (f), (g), (h), (i), (l), (m) (except as set forth in the proviso thereof and except to the extent such property is subject to a Mortgage), (n), (o), (p), (q), (r) and (u)), or (2) any Casualty Event occurs, which results in the realization or receipt by the Borrower, Parent or any Restricted Subsidiary of Net Proceeds, subject to Section 2.05(b)(vi), the Borrower shall cause to be prepaid on or prior to the date which is 5 Business Days after the date of the realization or receipt by the Borrower, Parent or any Restricted Subsidiary of such Net Proceeds, an aggregate principal amount of Term Loans in an amount

equal to 100% of all such Net Proceeds; provided that if at the time that any such prepayment would be required, the Borrower or other Loan Party is required to offer to repurchase Permitted Second Priority Refinancing Debt, Incremental Equivalent Debt (to the extent secured by Liens on the Collateral on a *pari passu* basis with the Obligations) and the Permitted Refinancing of any such Indebtedness (to the extent secured by Liens on the Collateral on a *pari passu* basis with the Obligations), in each case pursuant to the terms of the documentation governing such Indebtedness with the net proceeds of any such Disposition or Casualty Event of, or with respect to, any property or assets constituting Collateral (such Permitted Second Priority Refinancing Debt, Incremental Equivalent Debt (or the Permitted Refinancing of any such Indebtedness) required to be offered to be so repurchased, “**Other Applicable Indebtedness**”), then the Borrower or other Loan Party may apply such net proceeds on a *pro rata* basis (determined on the basis of the aggregate outstanding principal amount of the Term Loans and Other Applicable Indebtedness at such time; provided that the portion of such net proceeds allocated to the Other Applicable Indebtedness shall not exceed the amount of such net proceeds required to be allocated to the Other Applicable Indebtedness pursuant to the terms thereof, and the remaining amount, if any, of such net proceeds shall be allocated to the Term Loans in accordance with the terms hereof) to the prepayment of the Term Loans and to the repurchase or prepayment of Other Applicable Indebtedness, and the amount of prepayment of the Term Loans that would have otherwise been required pursuant to this Section 2.05(b)(ii) shall be reduced accordingly; provided, further, that to the extent the holders of Other Applicable Indebtedness decline to have such Other Applicable Indebtedness repurchased or prepaid, the declined amount shall promptly (and in any event within ten Business Days after the date of such rejection) be applied to prepay the Term Loans in accordance with the terms hereof.

(iii) Subject to Section 2.05(b)(ix), if the Borrower, Parent or any Restricted Subsidiary incurs or issues any Indebtedness after the Closing Date (A) not permitted to be incurred or issued pursuant to Section 7.03 or (B) that is intended to constitute Credit Agreement Refinancing Indebtedness in respect of any Class of Term Loans, the Borrower shall cause to be prepaid an aggregate principal amount of Term Loans (or, in the case of Indebtedness constituting Credit Agreement Refinancing Indebtedness, the applicable Class of Term Loans) in an amount equal to 100% of all Net Proceeds received therefrom on or prior to the date which is five Business Days after the receipt by the Borrower, Parent or such Restricted Subsidiary of such Net Proceeds. In connection with any prepayment under this Section 2.05(b)(iii) that is consummated in respect of all or any portion of the Initial Term Loans prior to the two year anniversary of the Closing Date, the Borrower shall pay to each Term Lender the fee required by Section 2.09(d).

(iv) [Reserved].

(v) Notwithstanding any other provision of this Section 2.05, (i) to the extent that the repatriation to the United States of any Excess Cash Flow attributable to Foreign Subsidiaries (“**Foreign Subsidiary Excess Cash Flow**”) would be (x) prohibited or delayed by applicable local law or (y) restricted by applicable material constituent documents, including as a result of minority ownership (so long as such restrictions were not implemented for the purpose of avoiding such mandatory prepayment requirements), an amount equal to the portion of such Foreign Subsidiary Excess Cash Flow that would be so affected were the Borrower or Parent or a Restricted Subsidiary to attempt to repatriate such cash will not be required to be applied to repay Term Loans at the times provided in this Section 2.05 so long, but only so long, as the applicable local law or applicable material constituent documents would not otherwise permit repatriation to the United States, and if within one year following the date on which the respective prepayment would otherwise have been required such repatriation of any of such affected Foreign Subsidiary Excess Cash Flow is permissible under the applicable local law or applicable material constituent

documents (even if such cash is actually not repatriated), an amount equal to the amount of the Foreign Subsidiary Excess Cash Flow that could be repatriated will be promptly (and in any event not later than five Business Days after such repatriation) applied (net of an amount equal to the additional taxes of the Borrower, Parent, the Subsidiaries and the direct and indirect holders of Equity Interests in the Borrower that would be payable or reserved against as a result of a repatriation and any additional costs that would be incurred as a result of a repatriation, whether or not a repatriation actually occurs) by the Borrower or Parent to the repayment of the Term Loans pursuant to this Section 2.05 and (ii) to the extent that the Borrower or Parent has determined in good faith that repatriation of any Foreign Subsidiary Excess Cash Flow would have adverse tax cost consequences that are not de minimis (including the imposition of withholding Taxes), an amount equal to such Foreign Subsidiary Excess Cash Flow that would be so affected will not be subject to repayment under this Section 2.05; provided that in the case of each of clauses (i) and (ii), such nonpayment shall not constitute an Event of Default (and such amounts shall be available (A) to repay local foreign indebtedness, if any, or to be retained by the relevant Foreign Subsidiary, and (B) for working capital purposes of Parent, the Borrower and the Restricted Subsidiaries, in each case, subject to the prepayment provisions in this Section 2.05(b)(v)); provided, further, that (A) for purposes of this Section 2.05, Excess Cash Flow shall be deemed allocable to each Foreign Subsidiary, with respect to any period, in an amount equal to (i) the Consolidated EBITDA of such Foreign Subsidiary for such period, divided by (ii) the Consolidated EBITDA of Parent and its Restricted Subsidiaries for such period (it being understood and agreed for the avoidance of doubt that such allocation shall exclude any reduction from interest and principal payments in respect of the Obligations) and (B) the Borrower, Parent and the Restricted Subsidiaries shall be entitled to reduce Excess Cash Flow owed to the Lenders pursuant to Section 2.05(b)(i) in respect of any Excess Cash Flow Period by the aggregate amount of Excess Cash Flow attributable to Foreign Subsidiaries subject to the limitations and restrictions described above in this Section 2.05(b)(v) for such Excess Cash Flow Period.

(vi) Notwithstanding any other provision of this Section 2.05, (i) to the extent that the repatriation to the United States of any or all of the Net Proceeds of any Disposition by a Foreign Subsidiary (“**Foreign Disposition**”) or the Net Proceeds of any Casualty Event incurred by a Foreign Subsidiary (“**Foreign Casualty Event**”) would be (x) prohibited or delayed by applicable local law or (y) restricted by applicable material constituent documents, including as a result of minority ownership (so long as such restrictions were not implemented for the purpose of avoiding such mandatory prepayment requirements), an amount equal to the Net Proceeds that would be so affected were the Borrower or Parent or a Restricted Subsidiary to attempt to repatriate such cash will not be required to be applied to repay Term Loans at the times provided in this Section 2.05 so long, but only so long, as the applicable local law or applicable material constituent documents would not otherwise permit repatriation to the United States, and if within one year following the date on which the respective prepayment would otherwise have been required such repatriation of any of such affected Net Proceeds is permissible under the applicable local law or applicable material constituent documents, even if such cash is not actually repatriated at such time, an amount equal to the amount of the Net Proceeds will be promptly (and in any event not later than five Business Days) applied (net of an amount equal to the additional taxes of Parent, the Borrower, the Subsidiaries and the direct and indirect holders of Equity Interests in the Borrower that would be payable or reserved against and any additional costs that would be incurred as a result of a repatriation, whether or not a repatriation actually occurs) by the Borrower, Parent or the Restricted Subsidiaries to the repayment of the Term Loans pursuant to this Section 2.05 and (ii) to the extent that the Borrower or Parent has determined in good faith that repatriation of any of or all the Net Proceeds of any Foreign Disposition or Foreign Casualty Event would have adverse tax cost consequences that are not de

minimis (including the imposition of withholding Taxes) with respect to such Net Proceeds, an amount equal to such Net Proceeds that would be so affected will not be subject to repayment under this Section 2.05; provided, that in the case of each of clauses (i) and (ii), such nonpayment shall not constitute an Event of Default (and such amounts shall be available (A) to repay local foreign indebtedness, if any, or to be retained by the relevant Foreign Subsidiary, and (B) for working capital purposes of the Borrower, Parent and the Restricted Subsidiaries, in each case, subject to the prepayment provisions in this Section 2.05(b)(vi)). For the avoidance of doubt, nothing in this Section 2.05 shall require the Borrower to cause any amounts to be repatriated to the United States (whether or not such amounts are used in or excluded from the determination of the amount of any mandatory prepayments hereunder).

(vii) Except as otherwise provided in any Refinancing Amendment, Extension Amendment or any Incremental Amendment or as otherwise provided herein, (A) each prepayment of Term Loans pursuant to this Section 2.05(b) shall be applied ratably to each Class of Term Loans then outstanding provided that any prepayment of Term Loans with the Net Proceeds of Credit Agreement Refinancing Indebtedness shall be applied solely to each applicable Class of Refinanced Debt) and (B) each such prepayment shall be paid to the Lenders in accordance with their respective Pro Rata Shares of such prepayment.

(viii) The Borrower shall notify the Administrative Agent in writing of any mandatory prepayment of Term Loans required to be made by the Borrower pursuant to clauses (i), (ii) and (iii) of this Section 2.05(b) at least three Business Days prior to the date of such prepayment. Each such notice shall specify the date of such prepayment and provide a reasonably detailed calculation of the aggregate amount of such prepayment to be made by the Borrower. The Administrative Agent will promptly notify each Appropriate Lender of the contents of the Borrower's prepayment notice and of such Appropriate Lender's Pro Rata Share of the prepayment. Each Term Lender may reject all or a portion of its Pro Rata Share of any mandatory prepayment (such declined amounts, the "**Declined Proceeds**") of Term Loans required to be made pursuant to clauses (i), (ii) and (iii) of this Section 2.05(b) by providing written notice (each, a "**Rejection Notice**") to the Administrative Agent and the Borrower no later than 5:00 p.m. New York City time one Business Day after the date of such Lender's receipt of notice from the Administrative Agent regarding such prepayment; provided, however, in no event may the proceeds of any Credit Agreement Refinancing Indebtedness be rejected. Each Rejection Notice from a given Lender shall specify the principal amount of the mandatory repayment of Term Loans to be rejected by such Lender. If a Term Lender fails to deliver a Rejection Notice to the Administrative Agent within the time frame specified above or such Rejection Notice fails to specify the principal amount of the Term Loans to be rejected, any such failure will be deemed an acceptance of such mandatory prepayment of Term Loans. Any Declined Proceeds shall be retained by the Borrower.

(ix) Notwithstanding anything to the contrary set forth in any other clause in this Section 2.05, until the Discharge of First Lien Secured Obligations shall have occurred, no mandatory prepayments of Term Loans that would have otherwise been required under this Section 2.05(b) shall be required to be made (except that amounts declined by the lenders under the First Lien Credit Agreement pursuant to Section 2.05(b)(viii) (or any comparable section) of the First Lien Credit Agreement shall be required to be applied as a mandatory prepayment hereunder (but subject to Section 2.05(b)(viii))).

(c) *Interest, Funding Losses, Etc.* All prepayments under this Section 2.05 shall be accompanied by all accrued interest thereon, together with, in the case of any such prepayment of a

Eurocurrency Rate Loan on a date prior to the last day of an Interest Period therefor, any amounts owing in respect of such Eurocurrency Rate Loan pursuant to Section 3.05.

Notwithstanding any of the other provisions of this Section 2.05, so long as no Event of Default shall have occurred and be continuing, if any prepayment of Eurocurrency Rate Loans is required to be made under this Section 2.05, prior to the last day of the Interest Period therefor, in lieu of making any payment pursuant to this Section 2.05 in respect of any such Eurocurrency Rate Loan prior to the last day of the Interest Period therefor, the Borrower may, in its sole discretion, deposit an amount sufficient to make any such prepayment otherwise required to be made thereunder together with accrued interest to the last day of such Interest Period into a Cash Collateral Account until the last day of such Interest Period, at which time the Administrative Agent shall be authorized (without any further action by or notice to or from the Borrower or any other Loan Party) to apply such amount to the prepayment of such Loans in accordance with this Section 2.05. Upon the occurrence and during the continuance of any Event of Default, the Administrative Agent shall also be authorized (without any further action by or notice to or from the Borrower or any other Loan Party) to apply such amount to the prepayment of the outstanding Loans in accordance with the relevant provisions of this Section 2.05. Such deposit shall be deemed to be a prepayment of such Loans by the Borrower for all purposes under this Agreement.

#### **SECTION 2.06 Termination or Reduction of Commitments.**

(a) *Optional.* The Borrower may, upon written notice to the Administrative Agent, terminate the unused Commitments of any Class, or from time to time permanently reduce the unused Commitments of any Class, in each case without premium or penalty; provided that (i) any such notice shall be received by the Administrative Agent three Business Days prior to the date of termination or reduction, and (ii) any such partial reduction shall be in an aggregate amount of \$5,000,000, or any whole multiple of \$1,000,000 in excess thereof or, if less, the entire amount thereof. Notwithstanding the foregoing, the Borrower may rescind or postpone any notice of termination of any Commitments if such termination would have resulted from a refinancing of all or any portion of the applicable Class or occurrence of other event, which refinancing or other event shall not be consummated or otherwise shall be delayed.

(b) *Mandatory.* The Initial Term Commitments of each Term Lender shall be automatically and permanently reduced to \$0 upon the funding of the Initial Term Loans to be made by such Term Lender on the Closing Date.

(c) *Application of Commitment Reductions; Payment of Fees.* The Administrative Agent will promptly notify the Appropriate Lenders of any termination or reduction of unused Commitments of any Class under this Section 2.06. Upon any reduction of unused Commitments of any Class, the Commitment of each Lender of such Class shall be reduced by such Lender's Pro Rata Share of the amount by which such Commitments are reduced. All commitment fees accrued until the effective date of any termination of the Aggregate Commitments shall be paid on the effective date of such termination.

#### **SECTION 2.07 Repayment of Loans.**

(a) *Term Loans.* The Borrower shall repay to the Administrative Agent for the ratable account of the Appropriate Lenders on the Maturity Date for the Initial Term Loans, the aggregate principal amount of all Initial Term Loans outstanding on such date.

#### **SECTION 2.08 Interest.**

(a) Subject to the provisions of Section 2.08(b), (i) each Eurocurrency Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Eurocurrency Rate for such Interest Period *plus* the Applicable Rate and (ii) each Base Rate 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.

(b) During the continuance of a Default under Section 8.01(a), the Borrower shall pay interest on past due amounts owing by it hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws; provided that no interest at the Default Rate shall accrue or be payable to a Defaulting Lender so long as such Lender shall be a Defaulting Lender. Accrued and unpaid interest on such amounts (including interest on past due interest) shall be due and payable upon written 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.

#### **SECTION 2.09 Fees.**

(a) *[Reserved]*.

(b) *Other Fees.* The Borrower shall pay to the Agents such fees (including, but not limited to, administrative agent 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 (except as expressly agreed between the Borrower and the applicable Agent).

(c) *Upfront Fees.* The Borrower agrees to pay on the Closing Date to each Term Lender party to this Agreement on the Closing Date, as fee compensation for the funding of such Term Lender's Initial Term Loan on the Closing Date, an upfront fee (the "**Upfront Fee**") in an amount equal to 1.50% of the stated principal amount of such Term Lender's Term Loan made on the Closing Date. Such Upfront Fee will be in all respects fully earned, due and payable on the Closing Date and non-refundable and non-creditable thereafter and the Upfront Fee shall be netted against the Term Loans made by such Term Lender.

(d) *Prepayment Premium.* In connection with any prepayment of Initial Term Loans pursuant to Section 2.05(a) or Section 2.05(b)(iii) that is consummated in respect of all or any portion of the Initial Term Loans (x) prior to the first anniversary of the Closing Date, the Borrower shall pay to each Term Lender a fee equal to 2.0% of the aggregate principal amount of the Initial Term Loans of such Term Lender subject to such prepayment, (y) on or after the first anniversary of the Closing Date but prior to the second anniversary of the Closing Date, the Borrower shall pay to each Term Lender a fee equal to 1.0% of the aggregate principal amount of the Initial Term Loans of such Term Lender subject to such prepayment and (z) on or after the second anniversary of the Closing Date there shall be no additional fee.

**SECTION 2.10 Computation of Interest and Fees.** All computations of interest for Base Rate Loans when the Base Rate is determined in accordance with clause (b) of the definition thereof shall be made on the basis of a year of 365 days, or 366 days, as applicable, 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. 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.

**SECTION 2.11 Evidence of Indebtedness.**

(a) The Loans made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and evidenced by one or more entries in the Register maintained by the Administrative Agent, acting solely for this purpose as a non-fiduciary 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 *prima facie* evidence absent manifest error of the amount of the Loans 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 payable to such Lender, 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) [Reserved].

(c) Entries made in good faith by the Administrative Agent in the Register pursuant to Section 2.11(a), and by each Lender in its account or accounts pursuant to Section 2.11(a), shall be *prima facie* evidence of the amount of principal and interest due and payable or to become due and payable from the Borrower to, in the case of the Register, each Lender and, in the case of such account or accounts, such Lender, under this Agreement and the other Loan Documents, absent manifest error; provided that the failure of the Administrative Agent or such Lender to make an entry, or any finding that an entry is incorrect, in the Register or such account or accounts shall not limit or otherwise affect the obligations of the Borrower under this Agreement and the other Loan Documents.

**SECTION 2.12 Payments Generally.**

(a) 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 applicable Administrative Agent's Office in Dollars and in Same Day Funds not later than 2:00 p.m. New York City time on the date specified herein. The Administrative Agent will promptly distribute to each Appropriate Lender its Pro Rata Share (or other applicable share provided for under this Agreement) of such payment in like funds as received by wire transfer to such Lender's applicable Lending Office. All payments received by the Administrative Agent after 2:00 p.m. New York City time shall in each case be deemed received (in the Administrative Agent's sole discretion) on the next succeeding Business Day and any applicable interest or fee shall continue to accrue.

(b) Except as otherwise provided herein, 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 in computing interest or fees, as the case may

be; provided that, if such extension would cause payment of interest on or principal of Eurocurrency Rate Loans to be made in the next succeeding calendar month, such payment shall be made on the immediately preceding Business Day.

(c) Unless the Borrower or any Lender has notified the Administrative Agent, prior to the date any payment is required to be made by it to the Administrative Agent hereunder, that the Borrower or such Lender, as the case may be, will not make such payment, the Administrative Agent may assume that the Borrower or such Lender, as the case may be, has timely made such payment and may (but shall not be so required to), in reliance thereon, make available a corresponding amount to the Person entitled thereto. If and to the extent that such payment was not in fact made to the Administrative Agent in Same Day Funds, then:

(i) if the Borrower failed to make such payment, each Lender shall forthwith on demand repay to the Administrative Agent the portion of such assumed payment that was made available to such Lender in Same Day Funds, together with interest thereon in respect of each day from and including the date such amount was made available by the Administrative Agent to such Lender to the date such amount is repaid to the Administrative Agent in Same Day Funds at the applicable Overnight Rate from time to time in effect; and

(ii) if any Lender failed to make such payment, such Lender shall forthwith on demand pay to the Administrative Agent the amount thereof in Same Day Funds, together with interest thereon for the period from the date such amount was made available by the Administrative Agent to the Borrower to the date such amount is recovered by the Administrative Agent (the “**Compensation Period**”) at a rate per annum equal to the applicable Overnight Rate from time to time in effect. When such Lender makes payment to the Administrative Agent (together with all accrued interest thereon), then such payment amount (excluding the amount of any interest which may have accrued and been paid in respect of such late payment) shall constitute such Lender’s Loan included in the applicable Borrowing. If such Lender does not pay such amount forthwith upon the Administrative Agent’s demand therefor, the Administrative Agent may make a demand therefor upon the Borrower, and the Borrower shall pay such amount to the Administrative Agent, together with interest thereon for the Compensation Period at a rate per annum equal to the rate of interest applicable to the applicable Borrowing. Nothing herein shall be deemed to relieve any Lender from its obligation to fulfill its Commitment or to prejudice any rights which the Administrative Agent or the Borrower may have against any Lender as a result of any default by such Lender hereunder.

A notice of the Administrative Agent to any Lender or the Borrower with respect to any amount owing under this Section 2.12(c) shall be conclusive, absent manifest error.

(d) 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 2, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the applicable Borrowing set forth in Article 4 are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(e) The obligations of the Lenders hereunder to make Loans are several and not joint. The failure of any Lender to make any Loan 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.

(f) 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.

(g) Whenever any payment received by the Administrative Agent under this Agreement or any of the other Loan Documents is insufficient to pay in full all amounts due and payable to the Administrative Agent and the Lenders under or in respect of this Agreement and the other Loan Documents on any date, such payment shall be distributed by the Administrative Agent and applied by the Administrative Agent and the Lenders in the order of priority set forth in Section 8.03. If the Administrative Agent receives funds for application to the Obligations of the Loan Parties under or in respect of the Loan Documents under circumstances for which the Loan Documents do not specify the manner in which such funds are to be applied, the Administrative Agent may (to the fullest extent permitted by mandatory provisions of applicable Law), but shall not be obligated to, elect to distribute such funds to each of the Lenders in accordance with such Lender's Pro Rata Share of the Outstanding Amount of all Loans outstanding at such time, in repayment or prepayment of such of the outstanding Loans or other Obligations then owing to such Lender.

(h) Amounts to be applied to the prepayment of Loans in connection with any mandatory prepayments by the Borrower of the Term Loans pursuant to Section 2.05(b) shall be applied, as applicable, on a *pro rata* basis to the then outstanding Term Loans being prepaid irrespective of whether such outstanding Term Loans are Base Rate Loans or Eurocurrency Rate Loans; provided that if no Lenders exercise the right to waive a given mandatory prepayment of the Term Loans pursuant to Section 2.05(b)(viii), then, with respect to such mandatory prepayment, the amount of such mandatory prepayment shall be applied first to reduce outstanding Base Rate Loans. Any amounts remaining after each such application shall be applied to prepay Eurocurrency Rate Loans.

**SECTION 2.13 Sharing of Payments.** If, other than as provided elsewhere herein, any Lender shall obtain on account of the Loans made by it, any payment (whether voluntary, involuntary, through the exercise of any right of setoff, or otherwise) in excess of its ratable share (or other share contemplated hereunder) thereof, such Lender shall immediately (a) notify the Administrative Agent of such fact, and (b) purchase from the other Lenders such participations in the Loans made by them as shall be necessary to cause such purchasing Lender to share the excess payment in respect of such Loans, *pro rata* with each of them; provided that if all or any portion of such excess payment is thereafter recovered from the purchasing Lender under any of the circumstances described in Section 10.06 (including pursuant to any settlement entered into by the purchasing Lender in its discretion), such purchase shall to that extent be rescinded and each other Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender's ratable share (according to the proportion of (i) the amount of such paying Lender's required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered, without further interest thereon. For the avoidance of doubt, the provisions of this paragraph shall not be construed to apply to (A) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement as in effect from time to time (including the application of funds arising from the existence of a Defaulting Lender) or (B) any payment obtained by a Lender as consideration for the assignment or purchase of or sale or purchase of a participation in any of its Loans in connection with any assignment or participation permitted hereunder. The Borrower agrees that any Lender so purchasing a participation from another Lender may, to the fullest extent permitted by applicable Law, exercise all its rights of payment (including the right of setoff, but subject to Section 10.09) with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation. The Administrative Agent will keep records

(which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section 2.13 and will in each case notify the Lenders following any such purchases or repayments. Each Lender that purchases a participation pursuant to this Section 2.13 shall from and after such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Obligations purchased.

Notwithstanding anything to the contrary contained in this Section 2.13 or elsewhere in this Agreement, the Borrower may extend the final maturity of Term Loans in connection with an Extension that is permitted under Section 2.16 without being obligated to effect such extensions on a *pro rata* basis among the Lenders (it being understood that no such extension shall constitute a payment or prepayment of any Term Loans for purposes of this Section 2.13) without giving rise to any violation of this Section 2.13 or any other provision of this Agreement. Furthermore, the Borrower may take all actions contemplated by Section 2.16 in connection with any Extension (including modifying pricing, amortization and repayments or prepayments), and in each case such actions shall be permitted, and the differing payments contemplated therein shall be permitted without giving rise to any violation of this Section 2.13 or any other provision of this Agreement.

#### **SECTION 2.14 Incremental Borrowings.**

(a) *Incremental Term Commitments.* The Borrower may at any time or from time to time after the Closing Date, by notice to the Administrative Agent (an “**Incremental Request**”), request one or more new commitments which may be in the same Facility as any outstanding Term Loans (a “**Term Loan Increase**”) or a new Class of term loans under this Agreement (collectively with any Term Loan Increase, the “**Incremental Term Commitments**”), whereupon the Administrative Agent shall promptly deliver a copy to each of the Lenders.

(b) *Incremental Term Loans.* Any Incremental Term Loans effected through the establishment of one or more new Term Loans (excluding, for the avoidance of doubt, through any Term Loan Increase) made on an Incremental Facility Closing Date shall be designated a separate Class of Incremental Term Loans for all purposes of this Agreement. On any Incremental Facility Closing Date on which any Incremental Term Commitments of any Class are effected (including through any Term Loan Increase), subject to the satisfaction (or waiver) of the terms and conditions in this Section 2.14, (i) each Incremental Term Lender of such Class shall make a Loan to the Borrower (an “**Incremental Term Loan**”) in an amount equal to its Incremental Term Commitment of such Class and (ii) each Incremental Term Lender of such Class shall become a Lender hereunder with respect to the Incremental Term Commitment of such Class and the Incremental Term Loans of such Class made pursuant thereto. Notwithstanding the foregoing, Incremental Term Loans may have identical terms to any of the Term Loans and be treated as the same Class as any of such Term Loans.

(c) *Incremental Request.* Each Incremental Request from the Borrower pursuant to this Section 2.14 shall set forth the requested amount and proposed terms of the relevant Incremental Term Loans. Incremental Term Loans may be made by any existing Lender (but each existing Lender will not have an obligation to make any Incremental Term Commitment, nor will the Borrower have any obligation to approach any existing Lenders to provide any Incremental Term Commitment) or by any other bank or other financial institution (any such other bank or other financial institution being called an “**Additional Lender**”) (each such existing Lender or Additional Lender providing such, an “**Incremental Term Lender**”); provided that (i) the Administrative Agent shall have consented (not to be unreasonably withheld, conditioned or delayed) to such Lender’s or Additional Lender’s making such Incremental Term Loans to the extent such consent, if any, would be required under Section 10.07(b) for an assignment of

Loans to such Lender or Additional Lender and (ii) with respect to Incremental Term Commitments, any Affiliated Lender providing an Incremental Term Commitment shall be subject to the same restrictions set forth in Section 10.07(k) as they would otherwise be subject to with respect to any purchase by or assignment to such Affiliated Lender of Initial Term Loans.

(d) *Effectiveness of Incremental Amendment.* The effectiveness of any Incremental Amendment, and the Incremental Term Commitments thereunder, shall be subject to the satisfaction on the date of such Incremental Amendment (the “**Incremental Facility Closing Date**”) of each of the following conditions:

(i) (x) if the proceeds of such Indebtedness are being used to finance a Permitted Acquisition or Investment permitted hereunder, no Event of Default under Section 8.01(a) or (f) shall have occurred and be continuing or would exist after giving effect to such Indebtedness, or (y) if otherwise, no Event of Default shall have occurred and be continuing or would exist after giving effect to such Indebtedness;

(ii) [Reserved];

(iii) each Incremental Term Commitment shall be in an aggregate principal amount that is not less than \$2,000,000 and shall be in an increment of \$1,000,000 (provided that such amount may be less than \$2,000,000 if such amount represents all remaining availability under the limit set forth in clause (iv) below); and

(iv) the aggregate amount of the Incremental Term Loans and the Incremental Equivalent Debt shall not exceed (A) an amount equal to \$25,000,000, *minus*, the aggregate principal amount of any First Lien Incremental Term Loans, any Incremental Revolving Credit Commitments and any First Lien Incremental Equivalent Debt incurred or issued in reliance on Section 2.14(d)(iv)(A) of the First Lien Credit Agreement (or any equivalent provision of a First Lien Credit Agreement designated as such in connection with a Permitted Refinancing thereof), *plus* (B) up to an additional amount of Incremental Term Loans and/or Incremental Equivalent Debt so long as, in the case of this clause (B) only (x) with respect to any Incremental Facility secured by Liens on any assets or properties of the Borrower or its Restricted Subsidiaries, the Consolidated Senior Secured Net Leverage Ratio (determined on a Pro Forma Basis in accordance with Section 1.09 and without netting the cash proceeds of any such Indebtedness being so incurred for the purposes of such calculation) is no more than 3.50 to 1.00 or (y) with respect to any unsecured Incremental Facility, the Consolidated Total Net Leverage Ratio (determined on a Pro Forma Basis in accordance with Section 1.09 and without netting the cash proceeds of any such Indebtedness being so incurred for the purposes of such calculation) is no more than 5.00 to 1.00, in each case, calculated as of the last day of the most recently ended Test Period for which financial statements are internally available, determined on the applicable Incremental Facility Closing Date, after giving effect to any such incurrence or issuance (or, at the option of the Borrower, on the date of establishment of the commitments in respect thereof assuming the full amounts of all such additional amounts is drawn and outstanding) on a Pro Forma Basis; *plus* (C) an amount equal to the sum of all voluntary prepayments or repurchases of Term Loans made pursuant to Section 2.05(a) or Section 10.07(l)(x) except to the extent, in each case, financed with long term Indebtedness (other than Incremental Term Loans) (it being understood that (I) the Borrower shall be deemed to have used amounts under clause (C) prior to utilization of amounts under clause (A) or (B), and the Borrower shall be deemed to have used amounts under clause (B) (to the extent compliant therewith) prior to utilization of amounts under clause (A) and (C), and (II) Loans may be incurred under both clauses (A) and/or (C) and clause

(B), and proceeds from any such incurrence may be utilized in a single transaction by first calculating the incurrence under clause (B) above and then calculating the incurrence under clause (A) and/or (C) above).

(e) *Required Terms.* The terms, provisions and documentation of the Incremental Term Loans and Incremental Term Commitments of any Class, except as otherwise set forth herein, shall be as agreed between the Borrower and the applicable Incremental Term Lenders or lenders providing such Incremental Term Commitments, as applicable. In any event:

(i) the Incremental Term Loans (except as otherwise specified below in this clause (i)):

(A) (1) shall rank *pari passu* or junior (if secured) in right of payment and of security with the Term Loans and (2)(x) shall not be secured by any Lien on any property or asset of the Borrower or any Guarantor that does not also secure the other Facilities and (y) shall not be guaranteed by any Person other than the Guarantors under the other Facilities;

(B) shall not mature earlier than the Maturity Date of the Initial Term Loans outstanding at the time of incurrence of such Incremental Term Loans;

(C) shall have a Weighted Average Life to Maturity not shorter than the remaining Weighted Average Life to Maturity of Initial Term Loans;

(D) subject to Section 2.14(e)(i)(B) and Section 2.14(e)(i)(C) above, shall have amortization determined by the Borrower and the applicable Incremental Term Lenders or other Additional Lenders;

(E) the Incremental Term Loans may participate on *pro rata* basis or less than *pro rata* basis (but not on a greater than *pro rata* basis) in any mandatory prepayments of Initial Term Loans hereunder, as specified in the applicable Incremental Amendment or definitive documentation;

(F) [reserved]; and

(G) the other terms of any Incremental Term Loans that are not consistent with the then existing Initial Term Loans (other than pursuant to clauses (A) through (F) above and other than call protection to be agreed between the Borrower and the applicable Incremental Lenders) shall be no less favorable (taken as a whole) to the Lenders under the then existing Initial Term Loans than those applicable to the then existing Initial Term Loans or otherwise reasonably acceptable to the Administrative Agent (except for (x) covenants or other provisions applicable only to periods after the Maturity Date of the Initial Term Loans or any Indebtedness incurred under this Section 2.14 existing at the time of incurrence of such Incremental Term Loans and (y) any financial maintenance covenant to the extent such covenant is also added for the benefit of the Lenders under any applicable existing corresponding Facility).

(ii) [reserved].

(iii) the Effective Yield applicable to the Incremental Term Loans of each Class shall be determined by the Borrower and the applicable Incremental Term Lenders and shall be set forth in each applicable Incremental Amendment; provided, however, that with respect to any Incremental Term Loans made under Incremental Term Commitments that are secured on a

pari passu basis with the Initial Term Loans, the Effective Yield applicable to such Incremental Term Loans shall not be greater than the applicable Effective Yield payable pursuant to the terms of this Agreement as amended through the date of such calculation with respect to Initial Term Loans, *plus* 50 basis points per annum unless the interest rate (together with, as provided in the proviso below, the Eurocurrency Rate or Base Rate floor) with respect to the Initial Term Loans is increased so as to cause the then applicable Effective Yield under this Agreement on the Initial Term Loans to equal the Effective Yield then applicable to the Incremental Term Loans *minus* 50 basis points; provided if such Incremental Term Loan includes a Eurocurrency Rate floor greater than 1.00% per annum or a Base Rate floor greater than 2.00% per annum, such differential between the Eurocurrency Rate or Base Rate floors shall be equated to the applicable Effective Yield for purposes of determining whether an increase to the interest rate margin under the Initial Term Loans shall be required, but only to the extent an increase in the Eurocurrency Rate or Base Rate floor in the Initial Term Loans would cause an increase in the interest rate then in effect thereunder, and in such case, the Eurocurrency Rate or Base Rate floor (but not the interest rate margin) applicable to the Initial Term Loans shall be increased to the extent of such differential between the Eurocurrency Rate or Base Rate floors.

(f) *Incremental Amendment.* Commitments in respect of Incremental Term Loans shall become Commitments under this Agreement pursuant to an amendment (an “**Incremental Amendment**”) to this Agreement and, as appropriate, the other Loan Documents, executed by the Borrower, each Incremental Term Lender providing such Commitments and the Administrative Agent. The Incremental Amendment may, without the consent of any other Loan Party, Agent or Lender, effect 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. The Borrower will use the proceeds of the Incremental Term Loans as determined by the Borrower and the Lenders providing such Incremental Term Loans. No Lender shall be obligated to provide any Incremental Term Loans unless it so agrees. To the extent reasonably requested by the Administrative Agent, the Administrative Agent shall have received customary legal opinions, board resolutions, officers’ certificates and/or reaffirmation agreements consistent with those delivered on the Closing Date under Section 4.01 (other than changes to such legal opinions resulting from a change in Law, change in fact or change to counsel’s form of opinion reasonably satisfactory to the Administrative Agent). The Incremental Term Loans made pursuant to any Term Loan Increase shall be added to (and form part of) each Borrowing of outstanding Term Loans under the respective Class so incurred on a *pro rata* basis (based on the principal amount of each Borrowing) so that each Lender under such Class will participate proportionately in each then outstanding Borrowing of Term Loans under such Class.

(g) *[Reserved]*.

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

#### **SECTION 2.15 Refinancing Amendments.**

(a) On one or more occasions after the Closing Date, the Borrower may obtain, from any Lender or any Additional Refinancing Lender, Credit Agreement Refinancing Indebtedness in respect of all or any portion of the Term Loans then outstanding under this Agreement (which for purposes of this Section 2.15(a) will be deemed to include any then outstanding Refinancing Term Loans or Incremental Term Loans), in the form of Refinancing Term Loans or Refinancing Term Commitments pursuant to a Refinancing Amendment. No Lender shall be obligated to provide any Credit Agreement Refinancing Indebtedness, unless it so agrees.

(b) The effectiveness of any Refinancing Amendment shall be subject to the satisfaction (or waiver in accordance with the terms of such Refinancing Amendment) on the date thereof of each of the conditions set forth in Section 4.02 and, to the extent reasonably requested by the Administrative Agent, receipt by the Administrative Agent of (i) customary legal opinions, board resolutions and officers' certificates consistent with those delivered on the Closing Date other than changes to such legal opinion resulting from a change in law, change in fact or change to counsel's form of opinion reasonably satisfactory to the Administrative Agent and (ii) reaffirmation agreements and/or such amendments to the Collateral Documents as may be reasonably requested by the Administrative Agent in order to ensure that such Credit Agreement Refinancing Indebtedness is provided with the benefit of the applicable Loan Documents.

(c) Each issuance of Credit Agreement Refinancing Indebtedness under Section 2.15(a) shall be in an aggregate principal amount that is (x) not less than \$10,000,000 and (y) an integral multiple of \$1,000,000 in excess thereof.

(d) Each of the parties hereto hereby agrees that this Agreement and the other Loan Documents may be amended pursuant to a Refinancing Amendment, without the consent of any other Lenders, to the extent (but only to the extent) necessary to (i) reflect the existence and terms of the Credit Agreement Refinancing Indebtedness incurred pursuant thereto and (ii) make such other changes to this Agreement and the other Loan Documents consistent with the provisions and intent of the third paragraph of Section 10.01 (without the consent of the Required Lenders called for therein) and (iii) effect such other 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 2.15, and the Required Lenders hereby expressly authorize the Administrative Agent to enter into any such Refinancing Amendment.

(e) This Section 2.15 shall supersede any provisions in Section 2.13 or 10.01 to the contrary.

#### **SECTION 2.16 Extension of Term Loans.**

(a) *Extension of Term Loans.* The Borrower may at any time and from time to time request that all or a portion of the Term Loans of a given Class (each, an "**Existing Term Loan Tranche**") be amended to extend the scheduled maturity date(s) with respect to all or a portion of any principal amount of such Term Loans (any such Term Loans which have been so amended, "**Extended Term Loans**") and to provide for other terms consistent with this Section 2.16. In order to establish any Extended Term Loans, the Borrower shall provide a notice to the Administrative Agent (who shall provide a copy of such notice to each of the Lenders under the applicable Existing Term Loan Tranche) (each, an "**Extension Request**") setting forth the proposed terms of the Extended Term Loans to be established, which shall (x) be identical as offered to each Lender under such Existing Term Loan Tranche (including as to the proposed interest rates and fees payable) and offered *pro rata* to each Lender under such Existing Term Loan Tranche and (y) (except as to interest rates, fees, amortization, final maturity date, "AHYDO" payments, optional prepayments and redemptions, mandatory repayments, premium, required prepayment dates and participation in prepayments, which shall be determined by the Borrower and the Extending Term Lenders and set forth in the relevant Extension Request), be substantially identical to, or (taken as a whole) no more favorable to the Extending Term Lenders than those applicable to the Existing Term Loan Tranche subject to such Extension Request (except for covenants or other provisions applicable only to periods after the Latest Maturity Date that is in effect on the effective date of the Extension Amendment (immediately prior to the establishment of such Extended Term Loans)) (as reasonably determined by the Borrower), including: (i) 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

Term Loans of such Existing Term Loan Tranche, to the extent provided in the applicable Extension Amendment;provided, however, that at no time shall there be Classes of Term Loans hereunder (including Refinancing Term Loans and Extended Term Loans) which have more than five different Maturity Dates; (ii) the Effective Yield, pricing, optional prepayment and redemptions, mandatory repayments and “AHYDO” payments with respect to the Extended Term Loans (whether in the form of interest rate margin, upfront fees, OID or otherwise) may be different than the Effective Yield, pricing, optional prepayments and redemptions, mandatory repayments and “AHYDO” payments for the Term Loans of such Existing Term Loan Tranche, in each case, to the extent provided in the applicable Extension Amendment; (iii) the Extension Amendment may provide for other covenants and terms that apply solely to any period after the Latest Maturity Date that is in effect on the effective date of the Extension Amendment (immediately prior to the establishment of such Extended Term Loans); and (iv) Extended Term Loans may have call protection as may be agreed by the Borrower and the Lenders thereof; provided that no Extended Term Loans may be optionally or mandatorily prepaid prior to the date on which all Term Loans with an earlier final stated maturity (including Term Loans under the Existing Term Loan Tranche from which they were amended) are repaid in full, unless such optional or mandatory prepayment is accompanied by a *pro rata* optional or mandatory prepayment of such other Term Loans; provided, further, that (A) no Event of Default shall have occurred and be continuing at the time an Extension Request is delivered to Lenders, (B) in no event shall the final maturity date of any Extended Term Loans of a given Extension Series at the time of establishment thereof be earlier than the Latest Maturity Date of the applicable Existing Term Loan

Tranche, (C) the Weighted Average Life to Maturity of any Extended Term Loans of a given Extension Series at the time of establishment thereof shall be no shorter (other than by virtue of amortization or prepayment of such Indebtedness prior to the time of incurrence of such Extended Term Loans) than the remaining Weighted Average Life to Maturity of the applicable Existing Term Loan Tranche, (D) any such Extended Term Loans (and the Liens securing the same) shall be permitted by the terms of the Intercreditor Agreements (to the extent any Intercreditor Agreement is then in effect), (E) all documentation in respect of such Extension Amendment shall be consistent with the foregoing and (F) any Extended Term Loans may participate on a *pro rata* basis or less than *pro rata* basis (but not greater than a *pro rata* basis) in any voluntary or mandatory repayments or prepayments hereunder, in each case as specified in the respective Extension Request. Any Extended Term Loans amended pursuant to any Extension Request shall be designated a series (each, an “**Extension Series**”) of Extended Term Loans for all purposes of this Agreement; provided that any Extended Term Loans amended from an Existing Term Loan Tranche may, to the extent provided in the applicable Extension Amendment, be designated as an increase in any previously established Extension Series with respect to such Existing Term Loan Tranche (in which case scheduled amortization with respect thereto shall be proportionally increased). Each Extension Series of Extended Term Loans incurred under this Section 2.16 shall be in an aggregate principal amount that is not less than \$3,000,000 (or, if less, the entire principal amount of the Indebtedness being extended pursuant to this Section 2.16(a)).

(b) *[Reserved]*.

(c) *Extension Request.* The Borrower shall provide the applicable Extension Request at least five Business Days prior to the date on which Lenders under the Existing Term Loan Tranche are requested to respond (or such shorter period as agreed by the Administrative Agent), and shall agree to such procedures, if any, as may be established by, or acceptable to, the Administrative Agent and the Borrower, in each case acting reasonably to accomplish the purposes of this Section 2.16. Subject to Section 3.07, no Lender shall have any obligation to agree to have any of its Term Loans of any Existing Term Loan Tranche amended into Extended Term Loans pursuant to any Extension Request. Any Lender holding a Loan under an Existing Term Loan Tranche (each, an “**Extending Term Lender**”) wishing to

have all or a portion of its Term Loans under the Existing Term Loan Tranche subject to such Extension Request amended into Extended Term Loans shall notify the Administrative Agent (each, an “**Extension Election**”) on or prior to the date specified in such Extension Request of the amount of its Term Loans under the Existing Term Loan Tranche which it has elected to request be amended into Extended Term Loans (subject to any minimum denomination requirements imposed by the Administrative Agent). In the event that the aggregate principal amount of Term Loans under the Existing Term Loan Tranche in respect of which applicable Term Lenders shall have accepted the relevant Extension Request exceeds the amount of Extended Term Loans requested to be extended pursuant to the Extension Request, Term Loans subject to Extension Elections shall be amended to Extended Term Loans on a *pro rata* basis (subject to rounding by the Administrative Agent, which shall be conclusive) based on the aggregate principal amount of Term Loans included in each such Extension Election.

(d) *Extension Amendment.* Extended Term Loans shall be established pursuant to an amendment (each, an “**Extension Amendment**”) to this Agreement among the Borrower, the Administrative Agent and each Extending Term Lender providing an Extended Term Loan thereunder, which shall be consistent with the provisions set forth in Section 2.16(a) above (but which shall not require the consent of any other Lender). The effectiveness of any Extension Amendment shall be subject to the satisfaction (or waiver in accordance with such Extension Amendment) on the date thereof of each of the conditions set forth in Section 4.02 and, to the extent reasonably requested by the Administrative Agent, receipt by the Administrative Agent of (i) legal opinions, board resolutions and officers’ certificates consistent with those delivered on the Closing Date other than changes to such legal opinion resulting from a change in law, change in fact or change to counsel’s form of opinion reasonably satisfactory to the Administrative Agent and (ii) reaffirmation agreements and/or such amendments to the Collateral Documents as may be reasonably requested by the Administrative Agent in order to ensure that the Extended Term Loans are provided with the benefit of the applicable Loan Documents. The Administrative Agent shall promptly notify each Lender as to the effectiveness of each Extension Amendment. Each of the parties hereto hereby agrees that this Agreement and the other Loan Documents may be amended pursuant to an Extension Amendment, without the consent of any other Lenders, to the extent (but only to the extent) necessary to (i) reflect the existence and terms of the Extended Term Loans incurred pursuant thereto, (ii) modify the prepayments set forth in Section 2.05 to reflect the existence of the Extended Term Loans and the application of prepayments with respect thereto, (iii) make such other changes to this Agreement and the other Loan Documents consistent with the provisions and intent of the third paragraph of Section 10.01 (without the consent of the Required Lenders called for therein) and (iv) effect such other 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 2.16, and the Required Lenders hereby expressly authorize the Administrative Agent to enter into any such Extension Amendment.

(e) *No Prepayment.* No conversion or extension of Loans or Commitments pursuant to any Extension Amendment in accordance with this Section 2.16 shall constitute a voluntary or mandatory prepayment or repayment for purposes of this Agreement. This Section 2.16 shall supersede any provisions in Section 2.13 or 10.01 to the contrary.

#### **SECTION 2.17 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 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 8 or otherwise), 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*, as the Borrower may request (so long as no Default or Event of Default has occurred and is continuing), 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 reasonably determined by the Administrative Agent; *third*, 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; *fourth*, to the payment of any amounts owing to the Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; *fifth*, so long as no Default or Event of Default has occurred and is continuing, 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 *sixth*, 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 in respect of which that Defaulting Lender has not fully funded its appropriate share and (y) such Loans 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 all Non-Defaulting Lenders on a *pro rata* basis prior to being applied to the payment of any Loans of 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 pursuant to this Section 2.17(a)(ii) shall be deemed paid to and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto.

(b) *Defaulting Lender Cure*. If the Borrower and the Administrative Agent 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, 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; 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.

#### **SECTION 2.18 Permitted Debt Exchanges**

(a) Notwithstanding anything to the contrary contained in this Agreement, pursuant to one or more offers (each, a "**Permitted Debt Exchange Offer**") made from time to time by the Borrower, the Borrower may from time to time following the Closing Date consummate one or more exchanges of Term Loans for Permitted Debt Exchange Notes (each such exchange a "**Permitted Debt Exchange**"), so long as the following conditions are satisfied: (i) no Event of Default shall have occurred and be continuing at the time the final offering document in respect of a Permitted Debt Exchange Offer is delivered to the relevant Lenders, (ii) the aggregate principal amount (calculated on the face amount

thereof) of Term Loans exchanged shall equal no more than the aggregate principal amount (calculated on the face amount thereof) of Permitted Debt Exchange Notes issued in exchange for such Term Loans; provided that the aggregate principal amount of the Permitted Debt Exchange Notes may include accrued interest and premium (if any) under the Term Loans exchanged and underwriting discounts, fees, commissions and expenses in connection with the issuance of such Permitted Debt Exchange Notes, (iii) the aggregate principal amount (calculated on the face amount thereof) of all Term Loans exchanged under each applicable Class by the Borrower pursuant to any Permitted Debt Exchange shall automatically be cancelled and retired by the Borrower on the date of the settlement thereof (and, if requested by the Administrative Agent, any applicable exchanging Lender shall execute and deliver to the Administrative Agent an Assignment and Assumption, or such other form as may be reasonably requested by the Administrative Agent, in respect thereof pursuant to which the respective Lender assigns its interest in the Term Loans being exchanged pursuant to the Permitted Debt Exchange to the Borrower for immediate cancellation), (iv) if the aggregate principal amount of all Term Loans of a given Class (calculated on the face amount thereof) tendered by Lenders in respect of the relevant Permitted Debt Exchange Offer (with no Lender being permitted to tender a principal amount of Term Loans which exceeds the principal amount thereof of the applicable Class actually held by it) shall exceed the maximum aggregate principal amount of Term Loans of such Class offered to be exchanged by the Borrower pursuant to such Permitted Debt Exchange Offer, then the Borrower shall exchange Term Loans subject to such Permitted Debt Exchange Offer tendered by such Lenders ratably up to such maximum amount based on the respective principal amounts so tendered, (v) all documentation in respect of such Permitted Debt Exchange shall be consistent with the foregoing, and all written communications generally directed to the Lenders in connection therewith shall be in form and substance consistent with the foregoing and made in consultation with the Borrower and the Auction Agent, and (vi) any applicable Minimum Tender Condition shall be satisfied.

(b) With respect to all Permitted Debt Exchanges effected by any of the Borrower pursuant to this Section 2.18, (i) such Permitted Debt Exchanges (and the cancellation of the exchanged Term Loans in connection therewith) shall not constitute voluntary or mandatory payments or prepayments for purposes of Section 2.05, and (ii) such Permitted Debt Exchange Offer shall be made for not less than \$10,000,000 in aggregate principal amount of Term Loans; provided that subject to the foregoing clause (ii) the Borrower may at its election specify as a condition (a “**Minimum Tender Condition**”) to consummating any such Permitted Debt Exchange that a minimum amount (to be determined and specified in the relevant Permitted Debt Exchange Offer in the Borrower’s discretion) of Term Loans of any or all applicable Classes be tendered.

(c) In connection with each Permitted Debt Exchange, the Borrower and the Auction Agent shall mutually agree to such procedures as may be necessary or advisable to accomplish the purposes of this Section 2.18 and without conflict with Section 2.18(d); provided that the terms of any Permitted Debt Exchange Offer shall provide that the date by which the relevant Lenders are required to indicate their election to participate in such Permitted Debt Exchange shall be not less than a reasonable period (in the discretion of the Borrower and the Auction Agent) of time following the date on which the Permitted Debt Exchange Offer is made.

(d) The Borrower shall be responsible for compliance with, and hereby agrees to comply with, all applicable securities and other laws in connection with each Permitted Debt Exchange, it being understood and agreed that (x) none of the Auction Agent, the Administrative Agent nor any Lender assumes any responsibility in connection with the Borrower’s compliance with such laws in connection with any Permitted Debt Exchange and (y) each Lender shall be solely responsible for its compliance with any applicable “insider trading” laws and regulations to which such Lender may be subject under the Exchange Act.

**ARTICLE 3**  
**TAXES, INCREASED COSTS PROTECTION AND ILLEGALITY**

**SECTION 3.01 Taxes.**

(a) Except as provided in this Section 3.01, any and all payments made by or on account of the Borrower or any Guarantor under any Loan Document shall be made free and clear of and without deduction for any Taxes, except to the extent required by any Laws. If the Borrower, any Guarantor or other applicable withholding agent shall be required by any Laws to deduct any Taxes from or in respect of any sum payable under any Loan Document to any Agent or any Lender, (i) if the Tax in question is an Indemnified Tax or Other Tax, the sum payable by the Borrower or any Guarantor shall be increased as necessary so that after all required deductions for Indemnified Taxes or Other Taxes have been made (including deductions applicable to additional sums payable under this Section 3.01), each Lender (or, in the case of a payment made to an Agent for its own account, such Agent) receives an amount equal to the sum it would have received had no such deductions for Indemnified Taxes or Other Taxes been made, (ii) the applicable withholding agent shall make such deductions, (iii) the applicable withholding agent shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable Laws, and (iv) within 30 days after the date of such payment (or, if receipts or evidence are not available within 30 days, as soon as possible thereafter), if the Borrower or any Guarantor is the applicable withholding agent, it shall furnish to such Agent or Lender (as the case may be) the original or a certified copy of a receipt evidencing payment thereof or other evidence acceptable to such Agent or Lender.

(b) In addition, the Borrower agrees to pay any and all present or future stamp, court or documentary Taxes and any other excise, property, intangible or mortgage recording Taxes, imposed by any Governmental Authority, which arise from any payment made under any Loan Document or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, any Loan Document excluding, in each case, any such Tax imposed as a result of an Agent or Lender's Assignment and Assumption, grant of a participation, transfer or assignment to or designation of a new applicable Lending Office or other office for receiving payments under any Loan Document (collectively, "**Assignment Taxes**") if such Assignment Tax is imposed as a result of a present or former connection of the assignor or assignee with the jurisdiction imposing such Assignment Tax (other than any connection arising from executing, delivering, being a party to, engaging in any transactions pursuant to, performing its obligations under, receiving payments under, and/or enforcing or receiving or perfecting a security interest under any Loan Document), except for Assignment Taxes resulting from assignment or participation that is requested or required in writing by the Borrower (all such non-excluded taxes described in this Section 3.01(b) being hereinafter referred to as "**Other Taxes**").

(c) The Borrower and each Guarantor agree to indemnify each Agent and each Lender, within 10 days after demand therefor, for (i) the full amount of Indemnified Taxes and Other Taxes paid or payable by such Agent or such Lender (including Indemnified Taxes or Other Taxes imposed on or attributable to amounts payable under this Section 3.01) and (ii) any expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the Governmental Authority. A certificate as to the amount of such payment or liability prepared in good faith and delivered by such Agent or Lender (or by an Agent on behalf of such Lender), accompanied by a written statement thereof setting forth in reasonable detail (provided that the Lender need not be required to disclose any price sensitive or confidential information or to the extent prohibited by law or regulation) the basis and calculation of such amounts shall be conclusive absent manifest error.

(d) Each Lender and Agent shall, at such times as are reasonably requested by the Borrower or the Administrative Agent, provide the Borrower and the Administrative Agent with any documentation prescribed by Law or reasonably requested by the Borrower or the Administrative Agent certifying as to any entitlement of such Lender to an exemption from, or reduction in, any applicable withholding Tax with respect to any payments to be made to such Lender or Agent under the Loan Documents. Each such Lender and Agent shall, whenever a lapse in time or change in circumstances renders such documentation (including any specific documentation required below in this Section 3.01(d)) obsolete, expired or inaccurate in any material respect, deliver promptly and on or before the date such documentation expires, becomes obsolete or inaccurate to the Borrower and the Administrative Agent updated or other appropriate documentation (including any new documentation reasonably requested by the Borrower or the Administrative Agent) or promptly notify the Borrower and the Administrative Agent in writing of its inability to do so. In addition, each Lender shall, at such times as are reasonably requested by the Borrower or the Administrative Agent, provide the Borrower and the Administrative Agent with such other documentation prescribed by Law or reasonably requested by the Borrower or Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether such Lender or Agent is subject to backup withholding or information reporting requirements. Notwithstanding any other provision of this Section 3.01(d), a Lender or an Agent shall not be required to deliver any form pursuant to this Section 3.01(d) that such Lender or such Agent is not legally eligible to deliver. Without limiting the foregoing:

(i) Each Lender that is a “United States person” (as defined in Section 7701(a)(30) of the Code) shall deliver to the Borrower and the Administrative Agent on or before the date on which it becomes a party to this Agreement (and from time to time thereafter upon the request of the Borrower or the Administrative Agent) two properly completed and duly signed original copies of Internal Revenue Service Form W-9 certifying that such Lender is exempt from federal backup withholding.

(ii) Each Lender that is not a United States person (as defined in Section 7701(a)(30) of the Code) shall deliver to the Borrower and the Administrative Agent on or before the date on which it becomes a party to this Agreement (and from time to time thereafter upon the request of the Borrower or the Administrative Agent) whichever of the following is applicable:

(A) two properly completed and duly signed original copies of Internal Revenue Service Form W-8BEN or Form W-8BEN-E (or any successor forms) claiming eligibility for the benefits of an income tax treaty to which the United States is a party,

(B) two properly completed and duly signed original copies of Internal Revenue Service Form W-8ECI (or any successor forms),

(C) in the case of a 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 hereto (any such certificate a “**United States Tax Compliance Certificate**”) and (B) two properly completed and duly signed original copies of Internal Revenue Service Form W-8BEN or Form W-8BEN-E (or any successor forms),

(D) to the extent a Lender is not the beneficial owner (for example, where the Lender is a partnership, or has sold a participation), Internal Revenue Service Form W-8IMY (or any successor forms) of the Lender, accompanied by a Form W-8ECI, Form W-8BEN, Form W-8BEN-E, United States Tax Compliance Certificate, Form W-9, Form

W-8IMY or any other required information from each beneficial owner, as applicable provided that, if the Lender is a partnership (and not a participating Lender) and if one or more direct or indirect partners are claiming the portfolio interest exemption, the United States Tax Compliance Certificate may be provided by such Lender on behalf of such direct or indirect partner(s)), or

(E) two properly completed and duly signed original copies of any other form prescribed by applicable U.S. federal income tax laws (including the Treasury Regulations) as a basis for claiming a complete exemption from, or a reduction in, United States federal withholding tax on any payments to such Lender under the Loan Documents.

(iii) Each Agent that is a “United States person” (as defined in Section 7701(a)(30) of the Code) shall deliver to the Borrower and the Administrative Agent two properly completed and duly signed original copies of Internal Revenue Service Form W-9 with respect to fees received on its own behalf, certifying that such Agent is exempt from federal backup withholding.

(iv) Each Agent that is not a “United States person” (as defined in Section 7701(a)(30) of the Code) shall deliver to the Borrower and the Administrative Agent two properly completed and duly signed original copies of Internal Revenue Service Form W-8ECI with respect to fees received on its own behalf.

(v) 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, such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by Laws and at such time

or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable Laws 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 obligations under FATCA, to determine whether such Lender has or has not complied with such Person’s obligations under FATCA and, if necessary, to determine the amount to deduct and withhold from such payment. Solely for purposes of this Section 3.01(d)(v), “FATCA” shall include any amendments made to FATCA after the date of this Agreement.

(e) Any Lender or Agent claiming any additional amounts payable pursuant to this Section 3.01 shall use its commercially reasonable efforts (subject to such Lender’s or Agent’s overall internal policies of general application and legal and regulatory restrictions) to mitigate or reduce the additional amounts payable, which commercially reasonable efforts may include a change in the jurisdiction of its Lending Office (or any other measures reasonably requested by the Borrower) if such a change or other measures would reduce any such additional amounts (or any similar amount that may thereafter accrue) and would not, in the sole determination of such Lender, result in any unreimbursed cost or expense or be otherwise materially disadvantageous to such Lender.

(f) If any Lender or Agent determines, in its sole discretion exercised in good faith, that it has received a refund in respect of any Indemnified Taxes or Other Taxes as to which indemnification or additional amounts have been paid to it by a Loan Party pursuant to this Section 3.01, it shall promptly remit such refund to such Loan Party (but only to the extent of indemnification or additional amounts paid by the Loan Party under this Section 3.01 with respect to the Indemnified Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses (including any Taxes) of the Lender or Agent, as the case may be, and without interest (other than any interest paid by the relevant

taxing authority with respect to such refund net of any Taxes payable by any Agent or Lender on such interest) provided that the Loan Parties, upon the request of the Lender or Agent, as the case may be, agree promptly to return such refund (*plus* any penalties, interest or other charges imposed by the relevant taxing authority) to such party in the event such party is required to repay such refund to the relevant taxing authority. This Section 3.01 shall not be construed to require any Agent or any Lender to make available its tax returns (or any other information relating to Taxes that it deems confidential) to any Loan Party or any other person.

(g) [Reserved].

(h) Each party's obligations under this Section 3.01 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

**SECTION 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 Eurocurrency Rate Loans, or to determine or charge interest rates based upon the Eurocurrency 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, in each case after the Closing Date then, on written notice thereof by such Lender to the Borrower through the Administrative Agent, any obligation of such Lender to make or continue Eurocurrency Rate Loans, or to convert Base Rate Loans to Eurocurrency Rate Loans shall be suspended until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Borrower shall promptly following written demand from such Lender (with a copy to the Administrative Agent), convert all applicable Eurocurrency Rate Loans of such Lender to Base Rate Loans, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurocurrency Rate Loans to such day, or promptly, if such Lender may not lawfully continue to maintain such Eurocurrency Rate Loans. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted and all amounts due, if any, in connection with such prepayment or conversion under Section 3.05. Each Lender agrees to use commercially reasonable efforts (subject to such Lender's overall internal policies of general application and legal and regulatory restrictions) to designate a different Lending Office if such designation will avoid the need for such notice, will not, in the good faith judgment of such Lender, otherwise be materially disadvantageous to such Lender and would not, in the sole determination of such Lender, result in any unreimbursed cost or expense or be otherwise materially disadvantageous to such Lender.

**SECTION 3.03 Inability to Determine Rates.** If the Administrative Agent or the Required Lenders determine after the Closing Date that for any reason adequate and reasonable means do not exist for determining the applicable Eurocurrency Rate for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan, or that the Eurocurrency Rate for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, or that Dollar deposits are not being offered to banks in the London interbank eurodollar, or other applicable market for the applicable amount and the Interest Period of such Eurocurrency Rate Loan the Administrative Agent will promptly so notify the Borrower in writing and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Eurocurrency Rate Loans or to convert Base Rate Loans to Eurocurrency Rate Loans shall be suspended and (y) in the event of a determination described in the preceding sentence with respect to the Eurocurrency Rate component of

the Base Rate, the utilization of the Eurocurrency 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 such Eurocurrency Rate Loans or, failing that, will be deemed to have converted such request, if applicable, into a request for a Borrowing of Base Rate Loans in the amount specified therein.

**SECTION 3.04 Increased Cost and Reduced Return; Capital Adequacy; Eurocurrency Rate Loan Reserves**

(a) If any Lender reasonably determines that as a result of the introduction of or any change in or in the interpretation of any Law, in each case after the Closing Date, or such Lender's compliance therewith, there shall be any material increase in the cost to such Lender of agreeing to make or making, funding or maintaining any Eurocurrency Rate Loans, or a material reduction in the amount received or receivable by such Lender in connection with any of the foregoing (excluding for purposes of this Section 3.04(a) any such increased costs or reduction in amount resulting from (i) Indemnified Taxes or Other Taxes indemnified pursuant to Section 3.01, or any Taxes excluded from the definition of (x) "Indemnified Taxes" or (y) "Other Taxes", or (ii) reserve requirements contemplated by Section 3.04(c)) and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining the Eurocurrency Rate Loan (or of maintaining its obligations to make any Loan), or to reduce in any material respect the amount of any sum received or receivable by such Lender, then from time to time within 15 Business Days after written demand by such Lender setting forth in reasonable detail (provided that the Lender need not be required to disclose any price sensitive or confidential information or to the extent prohibited by law or regulation) such increased costs (with a copy of such demand to the Administrative Agent given in accordance with Section 3.06), the Borrower shall pay to such Lender such additional amounts as will compensate such Lender for such increased cost or reduction. Notwithstanding anything herein to the contrary, for all purposes under this Agreement, (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; provided that the applicable Lender is imposing such charges on other similarly situated borrowers under comparable credit facilities; provided, further, that any such payments due to increased costs from market disruption shall be limited to circumstances generally affecting the banking market.

(b) If any Lender determines that the introduction of any Law regarding capital adequacy or liquidity requirements or any change therein or in the interpretation thereof, in each case after the Closing Date, or compliance by such Lender (or its Lending Office) therewith, has the effect of reducing the rate of return on the capital of such Lender or any company controlling such Lender as a consequence of such Lender's obligations hereunder (taking into consideration its policies with respect to capital adequacy and such Lender's desired return on capital), then from time to time promptly following written demand of such Lender setting forth in reasonable detail (provided that the Lender need not be required to disclose any price sensitive or confidential information or to the extent prohibited by law or regulation) the charge and the calculation of such reduced rate of return (with a copy of such demand to the Administrative Agent given in accordance with Section 3.06), the Borrower shall pay to such Lender such additional amounts as will compensate such Lender for such reduction within 15 Business Days after receipt of such demand. Notwithstanding anything herein to the contrary, for all purposes under this Agreement, (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; provided, that the applicable Lender is imposing such charges on other similarly situated borrowers under comparable credit facilities; provided, further, that any such payments due to increased costs from market disruption shall be limited to circumstances generally affecting the banking market.

(c) The Borrower shall pay to each Lender, (i) 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, additional interest on the unpaid principal amount of each applicable Eurocurrency Rate Loan of the Borrower 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 in the absence of manifest error), and (ii) as long as such Lender shall be required to comply with any reserve ratio requirement or analogous requirement of any other central banking or financial regulatory authority imposed in respect of the maintenance of the Commitments or the funding of any Eurocurrency Rate Loans of the Borrower, as the case may be, such additional costs (expressed as a percentage per annum and rounded upwards, if necessary, to the nearest five decimal places) equal to the actual costs allocated to such Commitment or Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive absent manifest error) which in each case shall be due and payable on each date on which interest is payable on such Loan; provided the Borrower shall have received at least fifteen (15) days' prior notice (with a copy to the Administrative Agent) of such additional interest or cost from such Lender. If a Lender fails to give notice fifteen (15) days prior to the relevant Interest Payment Date, such additional interest or cost shall be due and payable fifteen (15) days from receipt of such notice.

(d) Failure or delay on the part of any Lender to demand compensation pursuant to this Section 3.04 shall not constitute a waiver of such Lender's right to demand such compensation.

(e) If any Lender requests compensation under this Section 3.04, then such Lender will, if requested by the Borrower, use commercially reasonable efforts (subject to such Lender's overall internal policies of general application and legal and regulatory restrictions) to designate another Lending Office for any Loan affected by such event; provided that such efforts are made on terms that, in the commercially reasonable judgment of such Lender, cause such Lender and its Lending Office(s) to suffer no material economic, legal or regulatory disadvantage and would not, in the sole determination of such Lender, result in any unreimbursed cost or expense or be otherwise materially disadvantageous to such Lender; provided, further, that nothing in this Section 3.04(e) shall affect or postpone any of the Obligations of the Borrower or the rights of such Lender pursuant to Section 3.04(a), (b), (c) or (d).

**SECTION 3.05 Funding Losses.** Promptly following written demand of any Lender (with a copy to the Administrative Agent) from time to time, which demand shall set forth in reasonable detail (provided that the Lender need not be required to disclose any price sensitive or confidential information or to the extent prohibited by law or regulation) the basis for requesting such amount, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense (excluding loss of anticipated profits and calculated without giving effect to any interest rate floor) actually incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Eurocurrency Rate Loan of the Borrower on a day other than the last day of the Interest Period for such Loan; or

(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 Eurocurrency Rate Loan of the Borrower on the date or in the amount notified by the Borrower;

including any loss or expense (excluding loss of anticipated profits) 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 Eurocurrency Rate Loan made by it at the Eurocurrency 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 Eurocurrency Rate Loan was in fact so funded.

**SECTION 3.06 Matters Applicable to All Requests for Compensation.**

(a) Any Agent or any Lender claiming compensation under this Article 3 shall deliver a certificate to the Borrower setting forth the additional amount or amounts to be paid to it hereunder which shall be conclusive in the absence of manifest error. In determining such amount, such Agent or such Lender may use any reasonable and customary averaging and attribution methods.

(b) With respect to any Lender's claim for compensation under Section 3.02, 3.03 or 3.04, the Borrower shall not be required to compensate such Lender for any amount incurred if such Lender notifies the Borrower of the event that gives rise to such claim more than 180 days after such event; provided that, if the circumstance giving rise to such claim is retroactive, then such 180-day period referred to above shall be extended to include the period of retroactive effect thereof. If any Lender requests compensation by the Borrower under Section 3.04, the Borrower may, by notice to such Lender (with a copy to the Administrative Agent), suspend the obligation of such Lender to make or continue from one Interest Period to another applicable Eurocurrency Rate Loan or, if applicable, to convert Base Rate Loans into Eurocurrency Rate Loan, until the event or condition giving rise to such request ceases to be in effect (in which case the provisions of Section 3.06(c) shall be applicable); provided that such suspension shall not affect the right of such Lender to receive the compensation so requested.

(c) If the obligation of any Lender to make or continue any Eurocurrency Rate Loan or to convert Base Rate Loans into Eurocurrency Rate Loans shall be suspended pursuant to Section 3.06(b) hereof, such Lender's applicable Eurocurrency Rate Loans shall be automatically converted into Base Rate Loans (or, if such conversion is not possible, repaid), in each case, on the last day(s) of the then current Interest Period(s) for such Eurocurrency Rate Loans, as applicable (or, in the case of an immediate conversion or repayment required by Section 3.02, on such earlier date as required by Law) and, unless and until such Lender gives notice as provided below that the circumstances specified in Section 3.02, 3.03 or 3.04 hereof that gave rise to such conversion no longer exist:

(i) to the extent that such Lender's Eurocurrency Rate Loans have been so converted, all payments and prepayments of principal that would otherwise be applied to such Lender's applicable Eurocurrency Rate Loans shall be applied instead to its Base Rate Loans; and

(ii) all Loans that would otherwise be made or continued from one Interest Period to another by such Lender as Eurocurrency Rate Loans shall be made or continued instead as Base Rate Loans (if possible), and all Base Rate Loans of such Lender that would otherwise be converted into Eurocurrency Rate Loans shall remain as Base Rate Loans.

(d) If any Lender gives notice to the Borrower (with a copy to the Administrative Agent) that the circumstances specified in Section 3.02, 3.03 or 3.04 hereof that gave rise to the conversion of any of such Lender's Eurocurrency Rate Loans pursuant to this Section 3.06 no longer exist (which such Lender agrees to do promptly upon such circumstances ceasing to exist) at a time when Eurocurrency Rate Loans made by other Lenders under the applicable Facility are outstanding, if applicable, such Lender's Base Rate Loans shall be automatically converted, on the first day(s) of the next succeeding Interest Period(s) for such outstanding Eurocurrency Rate Loans, to the extent necessary so that, after giving effect thereto, all Loans held by the Lenders holding Eurocurrency Rate Loans under such Facility and by such Lender are held *pro rata* (as to principal amounts, interest rate basis, and Interest Periods) in accordance with their respective Commitments for the applicable Facility.

### **SECTION 3.07 Replacement of Lenders under Certain Circumstances**

(a) If at any time (i) the Borrower becomes obligated to pay additional amounts or indemnity payments described in Section 3.01 or 3.04 as a result of any condition described in such Sections or any Lender ceases to make any Eurocurrency Rate Loans as a result of any condition described in Section 3.02 or 3.04 or requires the Borrower to pay additional amounts as a result thereof, (ii) any Lender becomes a Defaulting Lender, (iii) any Lender becomes a Non-Consenting Lender or (iv) any Lender refuses to make an Extension Election pursuant to Section 2.16, then the Borrower may, on five (5) Business Days' prior written notice to the Administrative Agent and such Lender, (x) replace such Lender by causing such Lender to (and such Lender shall be obligated to) assign pursuant to Section 10.07(b) (so long as the assignment fee is paid by the Borrower in such instance) all of its rights and obligations under this Agreement (in respect of any applicable Facility only in the case of clause (i) or, with respect to a vote of a Class of directly and adversely affected Lenders ("Affected Class"), clause (iii), or with respect to an Extension Election only, in the case of clause (iv)) to one or more Eligible Assignees; provided that neither the Administrative Agent nor any Lender shall have any obligation to the Borrower to find a replacement Lender or other such Person; provided, further, that (A) 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 and (B) in the case of any such assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable Eligible Assignees shall have agreed to, and shall be sufficient (together with all other consenting Lenders) to cause the adoption of, the applicable departure, waiver or amendment of the Loan Documents; or (y) terminate the Commitment (if any) of such Lender and repay all Obligations of the Borrower due and owing to such Lender relating to the Loans held by such Lender as of such termination date; provided that in the case of any such termination of a Non-Consenting Lender such termination shall be sufficient (together with all other consenting Lenders after giving effect hereto) to cause the adoption of the applicable departure, waiver or amendment of the Loan Documents and such termination shall be in respect of any applicable facility only in the case of clause (i) or, with respect to an Affected Class, only in the case of clause (iii).

(b) Any Lender being replaced pursuant to Section 3.07(a) above shall (i) execute and deliver an Assignment and Assumption with respect to such Lender's applicable Commitment and outstanding Loans, and (ii) deliver any Notes evidencing such Loans to the Borrower or the Administrative Agent. Pursuant to such Assignment and Assumption, (A) the assignee Lender shall acquire all or a portion, as the case may be, of the assigning Lender's Commitment and outstanding Loans, (B) all obligations of the Borrower owing to the assigning Lender relating to the Loans and Commitments so assigned shall be paid in full by the assignee Lender to such assigning Lender concurrently with such Assignment and Assumption and (C) upon such payment and, if so requested by the assignee Lender, delivery to the assignee Lender of the appropriate Note or Notes executed by the

Borrower, the assignee Lender shall become a Lender hereunder and the assigning Lender shall cease to constitute a Lender hereunder with respect to such assigned Loans and Commitments, except with respect to indemnification provisions under this Agreement, which shall survive as to such assigning Lender. In connection with any such replacement, if any such Lender does not execute and deliver to the Administrative Agent a duly executed Assignment and Assumption reflecting such replacement within five Business Days of the date on which the assignee Lender executes and delivers such Assignment and Assumption to such Lender, then such Lender shall be deemed to have executed and delivered such Assignment and Assumption without any action on the part of the Lender and the Administrative Agent shall be entitled (but not obligated) to execute and deliver such Assignment and Assumption and/or such other documentation on behalf of such Lender.

(c) [Reserved].

(d) In the event that (i) the Borrower or the Administrative Agent has requested that the Lenders consent to a departure or waiver of any provisions of the Loan Documents or agree to any amendment thereto (including a Permitted Repricing Amendment), (ii) the consent, waiver or amendment in question requires the agreement of each affected Lender or each Lender of a Class in accordance with the terms of Section 10.01 or all the Lenders with respect to a certain Class of the Loans or each Lender holding Term Loans subject to a Permitted Repricing Amendment and (iii) the Required Lenders (or, in the case of a consent, waiver or amendment (1) involving all the Lenders with respect to a certain Class, the Required Class Lenders or (2) involving a Permitted Repricing Amendment, all other Lenders holding Term Loans actually subject to such repricing that will continue as repriced or modified Term Loans) have agreed to such consent, waiver or amendment, then any Lender who does not agree to such consent, waiver or amendment shall be deemed a “**Non-Consenting Lender.**” If any applicable Lender shall be deemed a Non-Consenting Lender and is required to assign all or any portion of its Initial Term Loans or its Initial Term Loans are prepaid by the Borrower pursuant to Section 3.07(a) prior to the two year anniversary of the Closing Date, the Borrower shall pay such Non-Consenting Lender the fee that would be owed to such Non-Consenting Lender pursuant to Section 2.09(d) in connection with a prepayment of such Initial Term Loans pursuant to Section 2.05(a) on such date.

**SECTION 3.08 Survival.** All the Loan Parties’ obligations under this Article 3 shall survive termination of the Aggregate Commitments and repayment of all other Obligations hereunder.

#### **ARTICLE 4**

#### **CONDITIONS PRECEDENT TO BORROWINGS**

**SECTION 4.01 Conditions to Initial Borrowing.** The obligation of each Lender to make a Loan hereunder on the Closing Date is subject to satisfaction (or waiver) of the following conditions precedent:

(a) The Administrative Agent’s (or, in the case of clause (v)(A), the Designated First Lien Representative’s, in accordance with the Closing Date Intercreditor Agreement) receipt of the following, each of which shall be original, pdf or facsimile copies or delivered by other electronic method (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party each in form and substance reasonably satisfactory to the Administrative Agent,

- (i) a Committed Loan Notice in accordance with the requirements hereof;
- (ii) executed counterparts of this Agreement;

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

(iv) a copy of the Organization Documents in relation to each Loan Party;

(v) the Security Agreement, each Collateral Document and each other document set forth on Schedule 4.01(a) required to be executed on the Closing Date as indicated on such schedule, duly executed by each Loan Party thereto, together with:

(A) certificates, if any, representing the Pledged Equity referred to therein accompanied by undated stock powers executed in blank and instruments, if any, evidencing the Pledged Debt indorsed in blank;

(B) proper financing statements (Form UCC-1 or the equivalent) naming each Loan Party for filing under the UCC or other appropriate filing offices of each jurisdiction as may be necessary to perfect the security interests purported to be created by the foregoing Security Agreement; and

(C) copies of Lien, bankruptcy, judgment, copyright, patent and trademark searches in each jurisdiction reasonably requested by the Administrative Agent with respect to each Loan Party;

(vi) such certificates of good standing (to the extent such concept exists) from the applicable secretary of state of the state of organization of each Loan Party, certificates of resolutions or other corporate or limited liability company action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party and resolutions of the board of directors, board of managers or members of each Loan Party (in each case, as appropriate or applicable) 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 on the Closing Date;

(vii) an opinion from (x) Kirkland & Ellis LLP, New York counsel to the Loan Parties, (y) Hellsell Fetterman LLP, local counsel in Washington, and (z) Snell & Wilmer, local counsel in Colorado, in each case in form and substance reasonably satisfactory to the Administrative Agent;

(viii) a solvency certificate from the chief financial officer, chief accounting officer or other officer with equivalent duties of the Borrower (immediately after giving effect to the Transactions) substantially in the form attached hereto as Exhibit D-2;

(ix) a certified copy of the Acquisition Agreement and exhibits, annexes and schedules thereto, duly executed by the parties thereto, together with a certification by a Responsible Officer of the Borrower that such document is in full force and effect as of the Closing Date and as to the matters specified in Sections 4.01(d), (e) and (i) have been satisfied or waived;

provided, however, that, each of the requirements set forth in clause (v) above, including the delivery of documents and instruments necessary to satisfy the Collateral and Guarantee Requirement (except for the execution and delivery of the Security Agreement and to the extent that a Lien on such Collateral may be

perfected solely (x) by the filing of a financing statement under the Uniform Commercial Code or (y) subject to the Closing Date Intercreditor Agreement, by the delivery of stock certificates of the Borrower, the Target and any of their respective wholly owned Domestic Subsidiaries to the extent possession of such stock certificates or other certificates perfects a security interest therein (provided that such stock certificates, other than stock certificates of the Borrower or any of its material wholly owned subsidiaries, will be required to be delivered on the Closing Date only to the extent the stock certificates of the Target's wholly owned Domestic Subsidiaries are received from the Target) shall not constitute conditions precedent to the initial Borrowing on the Closing Date after the Borrower's use of commercially reasonable efforts to provide such items on or prior to the Closing Date without undue burden or expense if the Borrower agrees to deliver, or cause to be delivered, such search results, documents and instruments, or take or cause to be taken such other actions as may be required to perfect such security interests within 90 days after the Closing Date (subject to extensions approved by the First Lien Administrative Agent in its reasonable discretion).

(b) All fees and expenses required to be paid hereunder (and, with respect to expenses, invoiced at least two Business Days before the Closing Date (except as otherwise reasonably agreed by the Borrower)) shall have been paid from the proceeds of the initial fundings under the Facilities, including fees pursuant to the Fee Letter.

(c) Prior to or substantially concurrently with the initial Borrowing on the Closing Date, (i) the Acquisition shall have been consummated in all material respects in accordance with the terms of the Acquisition Agreement (without giving effect to any amendments, waivers or consents thereto or modifications thereof that amend or waive any terms of the Acquisition Agreement in a manner materially adverse to the Lenders in their capacities as such without the consent of the Arrangers, such consent not to be unreasonably withheld, conditioned or delayed); provided that (A) any increase or reduction in the purchase price shall not be deemed to be materially adverse to the Lenders so long as (i) any increase in the purchase price shall not be funded with additional indebtedness and (ii) any reduction shall be allocated (x) *first*, to reduce the amount of any EMC Parent Preferred Units and (y) *second*, to ratably reduce the Term Facility and the First Lien Term Facility in proportion to the actual percentages that the amount of each of the Term Facility and the First Lien Term Facility bear to the pro forma total capitalization of the Borrower and its Subsidiaries after giving effect to the Transactions and (B) any amendment or other modification to the definition of "Material Adverse Effect" set forth in the Acquisition Agreement without the prior written consent of the Arrangers (such consent not to be unreasonably withheld, conditioned or delayed) shall be deemed to be materially adverse to the interests of the Lenders; (ii) the Refinancing shall have been consummated and all security interests and guarantees in connection therewith shall have been terminated and released; and (iii) the Loan Parties shall have entered into the First Lien Loan Documents providing for the First Lien Term Loans in an aggregate principal amount equal to \$268,000,000 and the Revolving Credit Commitments in an aggregate principal amount equal to \$35,000,000.

(d) No Material Adverse Effect (as defined in the Acquisition Agreement) shall have occurred or arisen since April 21, 2015.

(e) The Specified Representations shall be true and correct in all material respects on and as of the Closing Date; provided that, to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; provided, further, that any representation and warranty that is qualified as to "materiality," "Material Adverse Effect" or similar language shall be true and correct (after giving effect to any qualification therein) in all respects on such respective dates.

(f) The Administrative Agent shall have received the Annual Financial Statements and the Quarterly Financial Statements (it being understood the Administrative Agent hereby acknowledges receipt thereof).

(g) The Arrangers shall have received the Pro Forma Financial Statements.

(h) The Administrative Agent shall have received at least two Business Days prior to the Closing Date all documentation and other information about the Borrower and the Guarantors as shall have been reasonably requested in writing by the Administrative Agent at least seven calendar days prior to the Closing Date and as determined by the Administrative Agent to be required under applicable “know your customer” and anti-money laundering rules and regulations, including the USA Patriot Act.

(i) The representations and warranties made by the Target with respect to the Target and its Subsidiaries in the Acquisition Agreement that are material to the interests of the Lenders shall be true and correct in all material respects, but only to the extent that Holdings or its applicable affiliates have or would have the right (taking into account any applicable cure provisions) to terminate their obligations under the Acquisition Agreement or decline to consummate the Acquisition as a result of a breach of such representations and warranties.

(j) The Borrower and its Restricted Subsidiaries shall have no material outstanding indebtedness for borrowed money other than the Facilities under this Agreement, the Second Lien Term Facility and indebtedness permitted to be incurred and remain outstanding under the Acquisition Agreement, this Agreement or the Second Lien Loan Documents.

(k) The terms and conditions in respect of any preferred Equity Interests of the Borrower, Holdings, Parent or any of their direct or indirect parent holding companies shall be reasonably satisfactory to the Arrangers; it being agreed that the terms and conditions of the EMC Parent Preferred Units are satisfactory to the Arrangers.

Without limiting the generality of the provisions of Section 9.03(e), for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

**SECTION 4.02 Conditions to All Borrowings.** The obligation of each Lender to honor any Request for Borrowing (other than a Committed Loan Notice requesting only a conversion of Loans to the other Type, or a continuation of Eurocurrency Rate Loans) after the Closing Date is subject to satisfaction or waiver of the following conditions precedent:

(i) The representations and warranties of each Loan Party set forth in Article 5 and in each other Loan Document shall be true and correct in all material respects on and as of the date of such Borrowing with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date, in which case they shall be true and correct in all material respects as of such earlier date; provided that any representation and warranty that is qualified as to “materiality,” “Material Adverse Effect” or similar language shall be true and correct (after giving effect to any qualification therein) in all respects on such respective dates.

(ii) No Default or Event of Default shall exist or would result from such proposed Borrowing or from the application of the proceeds therefrom (except in connection with a Borrowing on the Closing Date).

(iii) The Administrative Agent shall have received a Request for Borrowing in accordance with the requirements hereof.

Each Request for Borrowing (other than a Committed Loan Notice requesting only a conversion of Loans to the other Type, or a continuation of Eurocurrency Rate Loans) submitted by the Borrower after the Closing Date shall be deemed to be a representation and warranty that the conditions specified in Section 4.02 have been satisfied on and as of the date of the applicable Borrowing.

Notwithstanding anything in this Section 4.02 to the contrary, to the extent that the proceeds of Incremental Term Loans are to be used to finance a Permitted Acquisition or Investment permitted hereunder, the only conditions precedent to the funding of such Incremental Term Loans shall be the conditions precedent set forth in Section 2.14 and the related Incremental Amendment.

## **ARTICLE 5**

### **REPRESENTATIONS AND WARRANTIES**

Each of Parent, Holdings, the Borrower and each of the Subsidiary Guarantors party hereto represent and warrant to the Agents and the Lenders at the time of each Borrowing after the Closing Date (to the extent required to be true and correct for such Borrowing pursuant to Article 4) that:

**SECTION 5.01 Existence, Qualification and Power; Compliance with Laws.** Each Loan Party and each Restricted Subsidiary that is a Material Subsidiary (a) is a Person duly organized, incorporated or formed, validly existing and in good standing under the Laws of the jurisdiction of its incorporation, organization or formation to the extent such concept exists in such jurisdiction, (b) has all requisite organizational power and authority to, in the case of the Loan Parties, execute, deliver and perform its obligations under the Loan Documents to which it is a party, (c) is duly qualified and in good standing (where relevant) under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification, (d) is in compliance with all Laws, orders, writs and injunctions and (e) has all requisite governmental licenses, authorizations, consents and approvals to operate its business as currently conducted; except in each case, referred to in clauses (a) (other than with respect to Parent or the Borrower), (c), (d) or (e), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

**SECTION 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, and the consummation of the Transactions, (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 under (other than as permitted by Section 7.01), or require any payment to be made under (x) any Contractual Obligation to which such Person is a party or by which it or any of its property or assets is bound or (y) any material 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 or contravention or payment (but not creation of Liens) referred to in clauses (ii) and (iii), to the extent that such violation, conflict, breach, contravention or payment could not reasonably be expected to have a Material Adverse Effect.

**SECTION 5.03 Governmental Authorization; Other Consents.** No material approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document, the grant by any Loan Party of the Liens granted by it pursuant to the Collateral Documents, the perfection or maintenance of the Liens created under the Collateral Documents (including the priority thereof) or the exercise by the Administrative Agent or any Lender of its rights under the Loan Documents or the remedies in respect of the Collateral pursuant to the Collateral Documents, except for (i) any approval, consent, exemption, authorization, or other action by, or notice to, or filing necessary to perfect the Liens on the Collateral granted by the Loan Parties in favor of the Secured Parties (or release existing Liens) under applicable U.S. law, (ii) the approvals, consents, exemptions, authorizations, actions, notices and filings which have been duly obtained, taken, given or made and are in full force and effect (except to the extent not required to be obtained, taken, given or made or in full force and effect pursuant to the Collateral and Guarantee Requirement), (iii) the consent of the FCC to any transfer of control or assignment of the FCC Authorizations to the extent necessary to enforce any rights or remedies under this Agreement or under any other Loan Document, and (iv) those approvals, consents, exemptions, authorizations or other actions, notices or filings, the failure of which to obtain or make could not reasonably be expected to have a Material Adverse Effect.

**SECTION 5.04 Binding Effect.** This Agreement and each other Loan Document has been duly executed and delivered by each Loan Party that is a party thereto. This Agreement and each other Loan Document constitutes a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is a party thereto in accordance with its terms, except as such enforceability may be limited by (i) Debtor Relief Laws and by general principles of equity, (ii) the need for filings and registrations necessary to create or perfect the Liens on the Collateral granted by the Loan Parties in favor of the Secured Parties and (iii) the effect of foreign Laws, rules and regulations as they relate to the granting of security interests in assets of, pledges of Equity Interests in or Indebtedness owed by Foreign Subsidiaries (clauses (i), (ii) and (iii), the “**Enforcement Qualifications**”).

**SECTION 5.05 Financial Statements; No Material Adverse Effect**

(a) The Annual Financial Statements and the Quarterly Financial Statements fairly present in all material respects the financial condition of the Borrower, the Target and their respective Subsidiaries (as applicable) as of the dates thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the periods covered thereby, (A) except as otherwise expressly noted therein and (B) subject, in the case of the Quarterly Financial Statements, to changes resulting from normal year-end adjustments and the absence of footnotes.

(b) The unaudited *pro forma* consolidated balance sheet of the Borrower and its Restricted Subsidiaries as of the last day of the 12-month period ending on the last day of the most recently completed four-fiscal quarter period ended at least 45 days (or 105 days if such four-fiscal quarter period is the end of the Borrower’s fiscal year) prior to the Closing Date, prepared after giving effect to the Transactions as if the Transactions had occurred as of such date (including the notes thereto) (the “**Pro Forma Balance Sheet**”) and the unaudited *pro forma* consolidated statement of income of the Borrower and its Restricted Subsidiaries for the 12-month period ended at least 45 days (or 105 days if such four-fiscal quarter period is the end of the Borrower’s fiscal year) prior to the Closing Date, prepared after giving effect to the Transactions as if the Transactions had occurred at the beginning of such period and any other adjustments reasonably acceptable to the Administrative Agent (together with the Pro Forma Balance Sheet, the “**Pro Forma Financial Statements**”), copies of which have heretofore been furnished to the Administrative Agent, have been prepared based on the Annual Financial Statements and

the Quarterly Financial Statements and have been prepared in good faith, based on assumptions believed by the Borrower to be reasonable as of the date of delivery thereof and adjustment as agreed by the Borrower, and present fairly in all material respects on a *pro forma* basis the estimated financial position of the Borrower and its Subsidiaries as at the Closing Date and their estimated results of operations for the period covered thereby; provided that no such *pro forma* financial statement shall be required to include adjustments for purchase accounting (including adjustments of the type contemplated by Financial Account Standards Board Accounting Standards Codification 805, Business Combinations (formerly SFAS 141R)).

(c) Since the Closing Date, there has been no event, circumstance or change, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.

Each Lender and the Administrative Agent hereby acknowledges and agrees that Parent and its Subsidiaries may be required to restate historical financial statements as the result of the implementation of changes in GAAP or IFRS, or the respective interpretation thereof, and that any such restatement required solely as a result of such changes will not in itself result in a Default under the Loan Documents.

**SECTION 5.06 Litigation.** There are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of Parent or the Borrower, threatened in writing, at law, in equity, in arbitration or before any Governmental Authority, by or against the Borrower, Parent or any Restricted Subsidiary or against any of their properties or revenues that have a reasonable likelihood of adverse determination and such determination, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

**SECTION 5.07 Ownership of Property; Liens.** The Borrower, Parent and each of its Restricted Subsidiaries has good record title to, or valid leasehold interests in, or easements or other limited property interests in, all Real Property necessary in the ordinary conduct of its business, free and clear of all Liens, except (a) as set forth on Schedule 5.07, (b) minor defects in title that do not materially interfere with its ability to conduct its business or to utilize such assets for their intended purposes, (c) Liens permitted by Section 7.01 and (d) where the failure to have such title could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

**SECTION 5.08 Environmental Matters.** Except as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect:

(a) each Loan Party and its respective properties and operations are and have been in compliance with all Environmental Laws, which includes obtaining and maintaining all applicable Environmental Permits required under such Environmental Laws to carry on the business of the Loan Parties;

(b) the Loan Parties have not received any written notice that alleges any of them is in violation of or potentially liable under any Environmental Laws, and none of the Loan Parties nor any of the Real Property is the subject of any claims, investigations, liens, demands, or judicial, administrative or arbitral proceedings pending or, to the knowledge of Parent or the Borrower, threatened in writing, under any Environmental Law or to revoke or modify any Environmental Permit held by any of the Loan Parties;

(c) there has been no Release of Hazardous Materials on, at, under or from any Real Property or facilities owned, operated or leased by any of the Loan Parties, or, to the knowledge of Parent

or the Borrower, Real Property formerly owned, operated or leased by any Loan Party or arising out of the conduct of the Loan Parties that could reasonably be expected to require investigation, remedial activity or corrective action or cleanup or could reasonably be expected to result in Parent or any of its Restricted Subsidiaries incurring liability under any Environmental Laws; and

(d) there are no facts, circumstances or conditions arising out of or relating to the operations of the Loan Parties or Real Property or facilities owned, operated or leased by any of the Loan Parties or, to the knowledge of Parent or the Borrower, Real Property or facilities formerly owned, operated or leased by the Loan Parties that could reasonably be expected to result in the Borrower, Parent or any of its Restricted Subsidiaries incurring liability under any Environmental Laws.

The representations and warranties contained in this Section 5.08 are the sole and exclusive representations and warranties of Parent, Holdings, the Borrower and the Subsidiary Guarantors with respect to matters arising under or relating to Environmental Laws, Environmental Permits, Environmental Liabilities or Hazardous Materials.

**SECTION 5.09 Taxes.** Except as would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, each of the Loan Parties and their Restricted Subsidiaries have timely filed all tax returns required to be filed, and have paid all Taxes levied or imposed upon them or their properties, income, profits or assets, that are due and payable (including in their capacity as a withholding agent), except 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. To the knowledge of the Loan Parties, there is no proposed Tax deficiency or assessment against the Loan Parties or their Restricted Subsidiaries that, if made would, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

**SECTION 5.10 ERISA Compliance.**

(a) Except as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, each Plan is in compliance with its terms, the applicable provisions of ERISA, the Code and other federal or state Laws.

(b) (i) No ERISA Event has occurred or is reasonably expected to occur; (ii) neither any Loan Party, Restricted Subsidiary nor any ERISA Affiliate has incurred, or reasonably expects to incur, any liability under Title IV of ERISA with respect to any Pension Plan (other than premiums due but not delinquent under Section 4007 of ERISA); (iii) neither any Loan Party, Restricted Subsidiary nor any ERISA Affiliate has incurred, or reasonably expects to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Sections 4201 or 4243 of ERISA with respect to a Multiemployer Plan; and (iv) neither any Loan Party, Restricted Subsidiary nor any ERISA Affiliate has engaged in a transaction that could reasonably be expected to be subject to Sections 4069 or 4212(c) of ERISA; except, with respect to each of the foregoing clauses of this Section 5.10(b), as would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

(c) Except as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, each Foreign Plan is in compliance with its terms and with the requirements of any and all applicable laws, statutes, rules, regulations and orders and has been maintained, where required, in good standing with applicable regulatory authorities. Except as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect: (i) all contributions required to be made with respect to a Foreign Plan have been timely made; (ii) no Loan

Party has incurred any obligations in connection with the termination of, or withdrawal from, any Foreign Plan; and (iii) the present value of the accrued benefit liabilities (whether or not vested) under each Foreign Plan, determined as of the end of Parent's most recently ended fiscal year on the basis of reasonable actuarial assumptions, did not exceed the current value of the assets of such Foreign Plan allocable to such benefit liabilities.

**SECTION 5.11 Subsidiaries; Equity Interests.** As of the Closing Date (after giving effect to the Transactions), no Loan Party has any Subsidiaries other than those specifically disclosed on Schedule 5.11, and all of the outstanding Equity Interests owned by the Loan Parties (or a Subsidiary of any Loan Party) in such Subsidiaries have been validly issued and are fully paid and all Equity Interests owned by a Loan Party (or a Subsidiary of any Loan Party) in such Subsidiaries are owned free and clear of all Liens except (i) those created under the Collateral Documents or under the First Lien Loan Documents (which Liens shall be subject to the Closing Date Intercreditor Agreement) and (ii) any Lien that is permitted under Section 7.01. As of the Closing Date, Schedules 1 and 9 of the Perfection Certificate (a) set forth the name and jurisdiction of each Domestic Subsidiary that is a Loan Party, (b) set forth the ownership interest of the Borrower and any other Subsidiary thereof in each Subsidiary, including the percentage of such ownership and (c) identify each Subsidiary that is a Subsidiary the Equity Interests of which are required to be pledged on the Closing Date pursuant to the Collateral and Guarantee Requirement.

**SECTION 5.12 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, or extending credit for the purpose of purchasing or carrying Margin Stock, and no proceeds of any Borrowings will be used for any purpose that violates Regulation T, U or X of the Board.

(b) None of Parent, the Borrower or any of the Restricted Subsidiaries is or is required to be registered as an "investment company" under the Investment Company Act of 1940.

**SECTION 5.13 Disclosure.** No report, financial statement, certificate or other written information furnished by or on behalf of any Loan Party (other than projected financial information, *pro forma* financial information, budgets, estimates and information of a general economic or industry nature) to any Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or any other Loan Document (as modified or supplemented by other information so furnished) when taken as a whole contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein (when taken as a whole), in the light of the circumstances under which they were made, not materially misleading. With respect to projected financial information and *pro forma* financial information, the Borrower represents that such information was prepared in good faith based upon assumptions believed to be reasonable at the time furnished, it being understood that such projected financial information and *pro forma* financial information are not to be viewed as facts or as a guarantee of performance or achievement of any particular results and that actual results may vary from such forecasts and that such variations may be material and that no assurance can be given that the projected results will be realized.

**SECTION 5.14 Labor Matters.** Except as, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect: (a) there are no strikes or other labor disputes against Parent or any of its Restricted Subsidiaries pending or, to the knowledge of Parent or the Borrower, threatened; (b) hours worked by and payments made to employees of Parent or any of its Restricted Subsidiaries have not been in violation of the Fair Labor Standards Act of 1938 or any other applicable Laws dealing with such matters; and (c) all payments due from Parent or any of its Restricted

Subsidiaries on account of employee health and welfare insurance have been paid or accrued as a liability on the books of the relevant party.

**SECTION 5.15 Intellectual Property; Licenses, Etc.** Each of Parent and the Restricted Subsidiaries owns, licenses, possesses or otherwise has the right to use all of the trademarks, service marks, trade names, domain names, copyrights, patents, patent rights, software, know-how, trade secrets, database rights, design rights and other intellectual property rights (collectively, “**IP Rights**”) that are reasonably necessary for the operation of its businesses as currently conducted, except to the extent the failure to own, license, possess or otherwise have the right to use such IP Rights, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. To the knowledge of Parent or the Borrower, Parent and the Restricted Subsidiaries’ present business operations do not infringe upon any IP Rights held by any Person except for such infringements, individually or in the aggregate, which could not reasonably be expected to have a Material Adverse Effect. No claim or litigation regarding any IP Rights owned, used or held for use by Parent or any Restricted Subsidiary is pending or, to the knowledge of Parent or the Borrower, threatened, against any Loan Party or any of the Restricted Subsidiaries, which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

As of the Closing Date, all registrations and applications for registration of IP Rights under the name of each Loan Party listed on Schedule 11(a) and 11(b) of the Perfection Certificate are solely owned by such Loan Party free and clean of all Liens, and are valid and in full force and effect, except, in each case, to the extent failure of any of the foregoing to be valid and in full force and effect could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

**SECTION 5.16 Solvency.** On the Amendment No. 1 Effective Date, after giving effect to the Amendment Transactions, the Borrower and its Subsidiaries, on a consolidated basis, are Solvent.

**SECTION 5.17 FCC Authorizations.** The FCC Authorizations constitute all licenses and authorizations issued by the FCC that are necessary for the operation of the business of Parent and its Restricted Subsidiaries as currently conducted except as could not reasonably be expected to have a Material Adverse Effect. The FCC Authorizations are in full force and effect and have not expired, been revoked, suspended, rescinded, or terminated and are not subject to any conditions or requirements that have not been imposed upon all such authorizations generally except as could not reasonably be expected to have a Material Adverse Effect. Except as could not reasonably be expected to result in a Material Adverse Effect, Parent and its Restricted Subsidiaries operate their business in full compliance with the terms of the FCC Authorizations and the Communications Act. To the knowledge of Parent or the Borrower and except as would not reasonably be expected to result in a Material Adverse Effect, there is no action pending or, to the knowledge of Parent or the Borrower, threatened before the FCC to revoke, refuse to renew, suspend, or modify any of the FCC Authorizations other than proceedings to amend FCC rules of general applicability.

**SECTION 5.18 USA Patriot Act; OFAC; FCPA.**

(a) To the extent applicable, each of Parent, the Borrower and the Restricted Subsidiaries (i) is in compliance, in all material respects, with (x) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Department of the Treasury (31 CFR Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto, (y) the USA Patriot Act and (z) Sanctions, and (ii) will not directly or indirectly use the proceeds of the Loans, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other Person to fund or facilitate any activities or business of any kind that would constitute or result in a violation of Sanctions.

(b) None of Parent, the Borrower, any Restricted Subsidiary nor, to the knowledge of Parent or the Borrower, any director or officer of Parent, the Borrower or any Restricted Subsidiary is a Sanctioned Person; and the Borrower will not, directly or indirectly, use the proceeds of the Loans or otherwise make available such proceeds to any Person, for the purpose of financing activities (except for Licensed Activities) of or with any Person that, at the time of such financing, is (i) a Sanctioned Person or (ii) located in a Sanctioned Country.

(c) No part of the proceeds of the Loans will be used, directly or indirectly, by the Loan Parties or any Restricted Subsidiary for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

(d) Schedule 5.18(d) sets forth as of the Closing Date each License pursuant to which the Borrower or any of its Restricted Subsidiaries is conducting Licensed Activities.

**SECTION 5.19 Security Documents.** Except as otherwise contemplated hereby or under any other Loan Documents and subject to the terms of the Intercreditor Agreements, the provisions of the Collateral Documents are effective to create in favor of the Administrative Agent for the benefit of the Secured Parties legal, valid and enforceable Liens on, and security interests in, the Collateral and, (i) when all appropriate filings or recordings are made in the appropriate offices as may be required under applicable Laws (which filings or recordings shall be made to the extent required by any Collateral Document) and (ii) upon the taking of possession or control by the Administrative Agent (or its agent pursuant to an Intercreditor Agreement) of such Collateral with respect to which a security interest may be perfected only by possession or control (which possession or control shall be given to the Administrative Agent to the extent required by any Collateral Document), such Collateral Document will constitute fully perfected Liens on, and security interests in, all right, title and interest of the Loan Parties in such Collateral, in each case subject to no Liens other than the applicable Liens permitted under the Loan Documents, a legal, valid, enforceable and perfected Lien (if and to the extent perfection may be achieved by the filings and/or other actions required to be taken hereby or by the applicable Collateral Documents) on all right, title and interest of the respective Loan Parties in the Collateral described therein subject to the Enforcement Qualifications and Liens permitted by Section 7.01.

Notwithstanding anything herein (including this Section 5.19) or in any other Loan Document to the contrary, neither the Borrower nor any other Loan Party makes any representation or warranty as to (A) the effects of perfection or non-perfection, the priority or the enforceability of any pledge of or security interest (other than with respect to those pledges and security interests made under the Laws of the jurisdiction of formation of the applicable Foreign Subsidiary) in any Equity Interests of any Foreign Subsidiary, or as to the rights and remedies of the Agents or any Lender with respect thereto, in each case under foreign Law, (B) the pledge or creation of any security interest, or the effects of perfection or non-perfection, the priority or the enforceability of any pledge of or security interest to the extent such pledge, security interest, perfection or priority is not required pursuant to the Collateral and Guarantee Requirement or (C) on the Closing Date and until required pursuant to Section 6.11, 6.13 or 4.01(a)(v), the pledge or creation of any security interest, or the effects of perfection or non-perfection, the priority or enforceability of any pledge or security interest to the extent not required on the Closing Date pursuant to Section 4.01(a)(v).

**ARTICLE 6**  
**AFFIRMATIVE COVENANTS**

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation (other than contingent obligations not yet due and owing as to which no claim has been asserted), hereunder which is accrued and payable shall remain unpaid or unsatisfied, then from and after the Closing Date, Parent and the Borrower shall, and shall (except in the case of the covenants set forth in Sections 6.01, 6.02 and 6.03) cause each of its respective Restricted Subsidiaries to:

**SECTION 6.01 Financial Statements.**

(a) Commencing with the fiscal year ended December 31, 2015, deliver to the Administrative Agent for prompt further distribution to each Lender, within 120 days after the end of each fiscal year, a consolidated balance sheet of (x) for the fiscal year ended December 31, 2015, Holdings and its Restricted Subsidiaries, and (y) for the fiscal year ended December 31, 2016 and thereafter, Parent and its Restricted Subsidiaries, as at the end of such fiscal year and the related consolidated statements of income or operations, stockholders' equity and cash flows for such fiscal year, setting forth in each case (other than for the fiscal year ended December 31, 2016) in comparative form the figures for the previous fiscal year, all in reasonable detail (together with, in all cases, a customary management summary) and prepared in accordance with GAAP, audited and accompanied by a report and opinion of an independent registered public accounting firm of nationally recognized standing or other independent registered public accounting firm approved by the Administrative Agent (such consent not to be unreasonably withheld, delayed or conditioned), 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 (other than related (i) solely to the occurrence of the Maturity Date or the upcoming maturity date under the Revolving Credit Facility occurring within one year from the date such report is delivered or (ii) any potential inability to satisfy any financial maintenance covenant on a future date or in a future period) or any qualification or exception as to the scope of such audit except for qualifications relating to changes in accounting principles or practices reflecting changes in GAAP and required or approved by such independent certified public accountants;

(b) Deliver to the Administrative Agent for prompt further distribution to each Lender, within 45 days after the end of each of the first three fiscal quarters of each fiscal year of Holdings or Parent, as applicable, a consolidated balance sheet of (x) for all such deliveries for periods ending prior to the Amendment No. 1 Effective Date, Holdings and its Restricted Subsidiaries, and (y) for all such deliveries for periods ending on or after the Amendment No. 1 Effective Date, Parent and its Restricted Subsidiaries, as at the end of such fiscal quarter and the related (i) consolidated statements of income or operations for such fiscal quarter and for the portion of the fiscal year then ended and (ii) consolidated statements of cash flows for such fiscal quarter and the portion of the 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 (together with, in all cases, a customary management summary) and certified by a Responsible Officer of the Borrower or Parent as fairly presenting in all material respects the financial condition, results of operations and cash flows of Holdings (or Parent, as applicable) and its Restricted Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes;

(c) Deliver to the Administrative Agent for prompt further distribution to each Lender, no later than 120 days after the end of the fiscal year ending December 31, 2015 and each subsequent fiscal year, a reasonably detailed consolidated budget for the following fiscal year on a quarterly basis (including a projected consolidated balance sheet of (x) for the budget for the fiscal year

ending December 31, 2016, Holdings and its Restricted Subsidiaries, and (y) thereafter, Parent and its Restricted Subsidiaries, as of the end of the following fiscal year, the related consolidated statements of projected cash flow and projected income summary of the material underlying assumptions applicable thereto) (collectively, the “**Projections**”); and

(d) Deliver to the Administrative Agent with each set of consolidated financial statements referred to in Sections 6.01(a) and 6.01(b), the related consolidating financial statements reflecting the adjustments necessary to eliminate the accounts of Unrestricted Subsidiaries (if any) (which may be in footnote form only) from such consolidated financial statements (it being agreed that no such consolidating financial statements shall be required to be audited).

Notwithstanding the foregoing, the obligations in Sections 6.01(a) and (b) may be satisfied with respect to financial information of Holdings and its Restricted Subsidiaries or Parent and its Restricted Subsidiaries by furnishing (I) the applicable financial statements of Holdings or Parent (or any direct or indirect parent of Holdings or Parent) or (II) the Form 10-K or 10-Q of Holdings or Parent (or any direct or indirect parent of Holdings or Parent), as applicable filed with the SEC; provided that, with respect to clauses (I) and (II), (i) to the extent such information relates to a parent of Holdings or Parent, such information is accompanied by consolidating information that explains in reasonable detail the differences between the information relating to such parent, on the one hand, and the information relating to Holdings or Parent and its Restricted Subsidiaries on a standalone basis, on the other hand and (ii) to the extent such information is in lieu of information required to be provided under Section 6.01(a), such materials are accompanied by a report and opinion of BDO USA, LLP or any other independent registered public accounting firm of nationally recognized standing or other independent registered public accounting firm approved by the Administrative Agent (such consent not to be unreasonably withheld, delayed or conditioned), 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 (other than related (i) solely to the occurrence of the Maturity Date or the upcoming maturity date of the First Lien Term Facility or the Revolving Credit Facility that is scheduled to occur within one year from the date such report is delivered or (ii) any potential inability to satisfy any financial maintenance covenant on a future date or in a future period) or exception or any qualification or exception as to the scope of such audit except for qualifications relating to changes in accounting principles or practices reflecting changes in GAAP and required or approved by such independent certified public accountants.

Any financial statement required to be delivered pursuant to Section 6.01(a) or 6.01(b) shall not be required to include purchase accounting adjustments relating to the Transactions, the Amendment Transactions or any Permitted Acquisition to the extent it is not practicable to include them.

Documents required to be delivered pursuant to Sections 6.01 and 6.02(a) through (d) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower (or any direct or indirect parent of the Borrower) posts such documents, or provides a link thereto on the website on the Internet at the website address listed on Schedule 10.02(a); or (ii) on which such documents are posted on the Borrower’s behalf on IntraLinks or another relevant 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 (x) upon written request by the Administrative Agent, the Borrower shall deliver paper copies of such documents to the Administrative Agent for further distribution to each Lender until a written request to cease delivering paper copies is given by the Administrative Agent and (y) the Borrower shall notify (which may be by facsimile or electronic mail) the Administrative Agent of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Notwithstanding anything contained herein, in every instance the Borrower shall be required to provide paper copies of the Compliance Certificates required by Section 6.02(a) to the Administrative Agent

(which may be electronic copies delivered via electronic mail). Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents.

The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Arrangers (or any of them) will make available to the Lenders 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 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 Arrangers and the Lenders to treat such Borrower Materials as not containing any Material Non-Public Information (although it may be sensitive and proprietary) (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 10.08); (y) all Borrower Materials marked “PUBLIC” are permitted to be made available through a portion of the Platform designated “Public Side Information”; and (z) the Administrative Agent and the Arrangers shall treat any Borrower Materials that are not marked “PUBLIC” as being suitable only for posting on a portion of the Platform not designated “Public Side Information.” Notwithstanding the foregoing, the Borrower shall be under no obligation to mark any Borrower Materials “PUBLIC”.

**SECTION 6.02 Certificates; Other Information.** Deliver to the Administrative Agent for prompt further distribution to each Lender:

(a) no later than five days after the delivery of the financial statements referred to in Sections 6.01(a) and (b), a duly completed Compliance Certificate signed by a Responsible Officer of the Borrower;

(b) promptly after the same are publicly available, copies of all annual, regular, periodic and special reports and registration statements which Parent, the Borrower or any Restricted Subsidiary files with the SEC or with any Governmental Authority that may be substituted therefor (other than amendments to any registration statement (to the extent such registration statement, in the form it became effective, is delivered), exhibits to any registration statement and, if applicable, any registration statement on Form S-8) and in any case not otherwise required to be delivered to the Administrative Agent pursuant to any other clause of this Section 6.02;

(c) promptly after the furnishing thereof, copies of any material written notices received by any Loan Party (other than in the ordinary course of business) pursuant to the terms of any First Lien Loan Document, First Lien Credit Agreement Refinancing Indebtedness, First Lien Incremental Equivalent Debt, Incremental Equivalent Debt, Credit Agreement Refinancing Indebtedness or Permitted Ratio Debt (and, in each case, any Permitted Refinancing thereof), in each case, in a principal amount in excess of the Threshold Amount and not otherwise required to be furnished to the Lenders pursuant to any other clause of Section 6.01, 6.02 or 6.03;

(d) together with the delivery of each Compliance Certificate pursuant to Section 6.02(a), (i) in the case of annual Compliance Certificates only, a report setting forth the legal name and the jurisdiction of formation of each Loan Party and the location of the chief executive office of each Loan Party on the Perfection Certificate or confirming that there has been no change in such information

since the Closing Date or the date of the last such report; (ii) a description of each event, condition or circumstance during the last fiscal quarter or fiscal year covered by such Compliance Certificate requiring a mandatory prepayment under Section 2.05(b) (to the extent notice of such event has not been previously furnished to the Administrative Agent) and (iii) a list of each Subsidiary of Parent that identifies each Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary as of the date of delivery of such Compliance Certificate (to the extent that there have been any changes in the identity or status as a Restricted Subsidiary or Unrestricted Subsidiary of any such Subsidiaries since the Closing Date or the most recent list provided);

(e) [reserved]; and

(f) promptly, such additional information regarding the business, legal, financial or corporate affairs of the Loan Parties or any of their respective Restricted Subsidiaries, or compliance with the terms of the Loan Documents, as the Administrative Agent or any Lender through the Administrative Agent may from time to time reasonably request.

In no event shall the requirements set forth in Section 6.02(f) require Parent, the Borrower or any of the Restricted Subsidiaries to provide any such information which (i) constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or their respective representatives or contractors) is prohibited by Law or (iii) is subject to attorney-client or similar privilege or constitutes attorney work-product.

**SECTION 6.03 Notices.** Promptly after a Responsible Officer of Parent or the Borrower has obtained knowledge thereof, notify the Administrative Agent:

(a) of the occurrence of any Event of Default;

(b) of the occurrence of an ERISA Event or similar event with respect to a Foreign Plan which would reasonably be expected to result in a Material Adverse Effect;

(c) of the filing or commencement of, or any threat or notice of intention of any person to file or commence, any action, suit, litigation or proceeding, whether at law or in equity by or before any Governmental Authority against Parent or any of its Restricted Subsidiaries that would reasonably be expected to result in a Material Adverse Effect; and

(d) of the occurrence of any other matter or development that has had or would reasonably be expected to have a Material Adverse Effect.

Each notice pursuant to this Section 6.03 shall be accompanied by a written statement of a Responsible Officer of the Borrower delivered to the Administrative Agent for prompt further distribution to each Lender (x) that such notice is being delivered pursuant to Section 6.03(a), (b), (c) or (d) (as applicable) and (y) setting forth details of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto.

**SECTION 6.04 Payment of Taxes.** Pay, discharge or otherwise satisfy as the same shall become due and payable in the normal conduct of its business, all its obligations and liabilities in respect of Taxes imposed upon it or upon its income or profits or in respect of its property, except, in each case, to the extent (a) any such Tax is being contested in good faith and by appropriate proceedings for which appropriate reserves have been established in accordance with GAAP or (b) the failure to pay or discharge

the same would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

**SECTION 6.05 Preservation of Existence, Etc.**

- (a) Preserve, renew and maintain in full force and effect its legal existence under the Laws of the jurisdiction of its organization; and
- (b) take all reasonable action to maintain all rights, privileges (including its good standing where applicable in the relevant jurisdiction), permits, authorizations, licenses and franchises necessary or desirable in the normal conduct of its business;

except, in the case of Section 6.05(a) (other than with respect to the Borrower) or this Section 6.05(b), to the extent (i) that failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or (ii) pursuant to any merger, consolidation, liquidation, dissolution or Disposition permitted by Article 7.

**SECTION 6.06 Maintenance of Properties.** Except if the failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order, repair and condition, ordinary wear and tear excepted and fire, casualty or condemnation excepted.

**SECTION 6.07 Maintenance of Insurance.** Maintain with insurance companies that the Borrower or Parent believes (in the good faith judgment of its management) are financially sound and reputable at the time the relevant coverage is placed or renewed, 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 (after giving effect to any self-insurance customary for similarly situated Persons engaged in the same or similar businesses as Parent and the Restricted Subsidiaries) as are customarily carried under similar circumstances by such other Persons. Not later than 90 days after the Closing Date (or the date any such insurance is obtained, in the case of insurance obtained after the Closing Date or, in each case, such later date as the Administrative Agent may agree), and subject to the terms, conditions and provisions of the Intercreditor Agreements, each such policy of insurance (other than business interruption insurance (if any), director and officer insurance and worker's compensation insurance) shall as appropriate (i) name the Administrative Agent as additional insured thereunder or (ii) in the case of each casualty insurance policy, contain a loss payable clause or endorsement that names the Administrative Agent, on behalf of the Lenders, as a loss payee thereunder. If the improvements on any Mortgaged Property are at any time located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a special flood hazard area with respect to which flood insurance has been made available under the National Flood Insurance Act of 1968 (as now or hereafter in effect or successor act thereto), then, to the extent required by applicable Flood Insurance Laws, the Borrower or Parent shall, or shall cause each Loan Party to, (i) maintain, or cause to be maintained, with a financially sound and reputable insurer, flood insurance in an amount reasonably satisfactory to the Administrative Agent and otherwise sufficient to comply with all applicable rules and regulations promulgated pursuant to the Flood Insurance Laws and (ii) upon the reasonable request of the Administrative Agent (not to exceed one time per fiscal year, unless an Event of Default has occurred and is continuing) deliver to the Administrative Agent evidence of such compliance in form and substance reasonably acceptable to the Administrative Agent.

**SECTION 6.08 Compliance with Laws.** Comply with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, except if the failure to

comply therewith could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

**SECTION 6.09 Books and Records.** Maintain proper books of record and account, in which entries that are full, true and correct in all material respects and are in conformity with GAAP and which reflect all material financial transactions and matters involving the assets and business of the Borrower, Parent or a Restricted Subsidiary, as the case may be (it being understood and agreed that certain Foreign Subsidiaries maintain individual books and records in conformity with generally accepted accounting principles in their respective countries of organization and that such maintenance shall not constitute a breach of the representations, warranties or covenants hereunder).

**SECTION 6.10 Inspection Rights.** Permit representatives and independent contractors of the Administrative Agent (on its own behalf or acting on behalf of the Lenders) 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, and independent public accountants (subject to such accountants' customary policies and procedures), 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, only the Administrative Agent on behalf of the Lenders may exercise rights of the Administrative Agent and the Lenders under this Section 6.10 and the Administrative Agent shall not exercise such rights more often than one time during any calendar year and such time shall be at the Borrower's expense; provided, further, that during the continuation of an Event of Default, the Administrative Agent (or any of its respective representatives or independent contractors), on behalf of the Lenders, may do any of the foregoing at the expense of the Borrower at any time during normal business hours and upon reasonable advance notice. The Administrative Agent shall give the Borrower and Parent the opportunity to participate in any discussions with the Borrower's or Parent's independent public accountants.

Notwithstanding anything to the contrary in this Section 6.10, none of Holdings, Parent, the Borrower or any of the Restricted Subsidiaries will be required to disclose, permit the inspection, examination or making copies or abstracts of, or discussion of, any document, information or other matter that (a) constitutes non-financial trade secrets or non-financial proprietary information, (b) in respect of which disclosure to the Administrative Agent or any Lender (or their respective representatives or contractors) is prohibited by Law or any binding agreement or (c) is subject to attorney-client or similar privilege or constitutes attorney work product.

**SECTION 6.11 Additional Collateral; Additional Guarantors.** At the Borrower's expense, subject to the terms, conditions and provisions of the Collateral and Guarantee Requirement, the Intercreditor Agreements and any applicable limitation in any Collateral Document, take all action necessary or reasonably requested by the Administrative Agent to ensure that the Collateral and Guarantee Requirement continues to be satisfied, including:

(a) Upon the formation or acquisition of any new direct or indirect wholly owned Material Domestic Subsidiary (in each case, other than an Excluded Subsidiary) by any Loan Party or the designation in accordance with Section 6.14 of any existing direct or indirect wholly owned Material Domestic Subsidiary as a Restricted Subsidiary (in each case, other than an Excluded Subsidiary) or any Subsidiary becoming a wholly owned Material Domestic Subsidiary (in each case, other than an Excluded Subsidiary) or any Excluded Subsidiary ceasing to be an Excluded Subsidiary:

(i) within 60 days after such formation, acquisition, designation or occurrence or such longer period as the Administrative Agent may agree in writing in its discretion:

(A) cause each such Material Domestic Subsidiary that is required to become a Guarantor pursuant to the Collateral and Guarantee Requirement to duly execute and deliver to the Administrative Agent a Joinder Agreement to become a Guarantor under this Agreement, Security Agreement Supplements, Intellectual Property Security Agreements, and other security agreements and documents as reasonably requested by and in form and substance reasonably satisfactory to the Administrative Agent (consistent with the Security Agreement, Intellectual Property Security Agreements and other security agreements in effect on the Closing Date), in each case granting Liens required by the Collateral and Guarantee Requirement;

(B) cause each such Material Domestic Subsidiary that is required to become a Guarantor pursuant to the Collateral and Guarantee Requirement (and the parent of each such Domestic Subsidiary that is the Borrower or a Guarantor) to deliver to the Designated First Lien Representative or other Representative in accordance with the terms of the Intercreditor Agreements any and all certificates representing Equity Interests (to the extent certificated) and intercompany notes constituting negotiable instruments (to the extent certificated) that are required to be pledged pursuant to the Collateral and Guarantee Requirement, accompanied by undated stock powers or other appropriate instruments of transfer executed in blank and instruments evidencing Indebtedness held by such Material Domestic Subsidiary and required to be delivered pursuant to the Collateral and Guarantee Requirement indorsed in blank to the Administrative Agent;

(C) take and cause such Material Domestic Subsidiary that is required to become a Guarantor pursuant to the Collateral and Guarantee Requirement and each direct or indirect parent of such Material Domestic Subsidiary to take whatever action (including the recording of Mortgages, the filing of UCC financing statements and delivery of stock and membership interest certificates) as may be necessary in the reasonable opinion of the Administrative Agent to vest in the Administrative Agent (or in any representative of the Administrative Agent designated by it) valid and perfected Liens to the extent required by the Collateral and Guarantee Requirement, and to otherwise comply with the requirements of the Collateral and Guarantee Requirement;

(ii) if reasonably requested by the Administrative Agent, within 60 days after such request (or such longer period as the Administrative Agent may agree in writing in its discretion), deliver to the Administrative Agent a signed copy of an opinion, addressed to the Administrative Agent and the Lenders, of counsel for the Loan Parties reasonably acceptable to the Administrative Agent as to such matters set forth in this Section 6.11(a) as the Administrative Agent may reasonably request;

(iii) as promptly as practicable after the request therefor by the Administrative Agent, deliver to the Administrative Agent with respect to each Material Real Property, any existing title reports, abstracts or environmental assessment reports, to the extent available and in the possession or control of a Loan Party; provided, however, that there shall be no obligation to deliver to the Administrative Agent any environmental assessment report whose disclosure to the Administrative Agent would require the consent of a Person other than a Loan Party or one of its Subsidiaries, where, despite the commercially reasonable efforts of the Borrower to obtain such consent, such consent cannot be obtained; and

(iv) if reasonably requested by the Administrative Agent, within 60 days after such request (or such longer period as the Administrative Agent may agree in writing in its discretion), deliver to the Administrative Agent any other items necessary from time to time to

satisfy the Collateral and Guarantee Requirement with respect to perfection and existence of security interests with respect to property of any Guarantor (and the direct parent of each such Guarantor) acquired after the Closing Date and subject to the Collateral and Guarantee Requirement, but not specifically covered by the preceding clauses (i), (ii) or (iii) or Section 6.11(b) below.

(b) Not later than 120 days (or such longer period as the Administrative Agent may agree in writing in its discretion) after (i) any Material Real Property is acquired by a Loan Party after the Closing Date or (ii) an entity becomes a Loan Party if such entity owns Material Real Property at the time it becomes a Loan Party, cause such Material Real Property, if such property is required to be provided as Collateral pursuant to the Collateral and Guarantee Requirement but is not automatically subject to a Lien pursuant to pre-existing Collateral Documents, to be subject to a Lien and Mortgage in favor of the Administrative Agent for the benefit of the Secured Parties and take, or cause the relevant Loan Party to take, such actions as shall be necessary or reasonably requested by the Administrative Agent to grant and perfect or record such Lien, in each case to the extent required by, and subject to the limitations and exceptions of, the Collateral and Guarantee Requirement and to otherwise comply with the requirements of the Collateral and Guarantee Requirement.

(c) Each Domestic Subsidiary required to be designated as a “Material Domestic Subsidiary” pursuant to the proviso in the definition of “Material Domestic Subsidiary” shall have taken all actions to comply with the provisions of Section 6.11 within the timeframe required by the definition of “Material Domestic Subsidiary”.

(d) No later than 60 days (or such longer period as the Administrative Agent may agree in its discretion) after the Closing Date, MTN shall transfer the Equity Interests of WMS held by MTN to JV Holdings, to the extent such transfer is permitted under the WMS LLC Agreement without the consent of the other member party to the WMS LLC Agreement.

**SECTION 6.12 Compliance with Environmental Laws.** Except, in each case, to the extent that the failure to do so could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect: comply, and take all commercially reasonable actions to cause all lessees and other Persons operating or occupying its properties to comply, with all Environmental Laws and Environmental Permits; obtain and renew all Environmental Permits necessary for its operations and occupancy of its properties; and, in each case to the extent the Loan Parties are required to do so by Environmental Laws, conduct any investigation, remedial or other corrective action necessary to address Hazardous Materials at any property or facility in accordance with Environmental Laws. If an Event of Default arising out of an Environmental Liability has occurred and is continuing, within 60 days of receiving a written request by the Administrative Agent, Borrower will provide the Administrative Agent with an environmental assessment report regarding the scope of the Environmental Liability and the likely cost of mitigating such Environmental Liability, prepared at Borrower’s sole cost and expense and by an environmental consultant reasonably acceptable to the Administrative Agent. If such report is not timely provided, the Administrative Agent may have them prepared by an environmental consultant of its choosing, at Borrower’s sole cost and expense.

**SECTION 6.13 Further Assurances.** Subject to the terms, conditions and provisions of the Intercreditor Agreements, promptly upon reasonable request by the Administrative Agent (i) correct any mutually identified material defect or error that may be discovered in the execution, acknowledgment, filing or recordation of any Collateral Document or other document or instrument relating to any Collateral, and (ii) 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 may reasonably request from time to time in order to carry out more effectively the purposes of this Agreement and the Collateral Documents, to the extent required pursuant to the Collateral and Guarantee Requirement and subject in all respects to the limitations therein. If the Administrative Agent reasonably determines that it is required by applicable Law to have appraisals prepared in respect of the Real Property of any Loan Party subject to a mortgage constituting Collateral, the Borrower shall promptly provide to the Administrative Agent appraisals that satisfy the applicable requirements of the Real Estate Appraisal Reform Amendments of FIRREA.

**SECTION 6.14 Designation of Subsidiaries.** The Borrower or Parent may at any time after the Closing Date designate any Restricted Subsidiary as an Unrestricted Subsidiary or any Unrestricted Subsidiary as a Restricted Subsidiary; provided that, (1) immediately before and after such designation, (i) no Event of Default shall have occurred and be continuing, (2) an Investment in such amount would be permitted at such time and (3) no Subsidiary may be designated as an Unrestricted Subsidiary if, after such designation, it would be a “Restricted Subsidiary” for the purpose of any Permitted Second Priority Refinancing Debt, Permitted Junior Priority Refinancing Debt, Permitted Unsecured Refinancing Debt, Incremental Equivalent Debt, Permitted Ratio Debt or Permitted Refinancing of any of the foregoing (in the case of any unsecured Indebtedness, in excess of the Threshold Amount). The designation of any Subsidiary as an Unrestricted Subsidiary after the Closing Date shall constitute an Investment by the Borrower or Parent, as applicable, therein at the date of designation in an amount equal to the fair market value as determined in good faith by the Borrower or Parent of the Borrower’s or Parent’s or its respective Subsidiary’s (as applicable) Investment therein. The designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall constitute (i) the incurrence at the time of designation of any Investment, Indebtedness or Liens of such Subsidiary existing at such time and (ii) a Return on any Investment by the Borrower or Parent in Unrestricted Subsidiaries pursuant to the preceding sentence in an amount equal to the fair market value as determined in good faith by the Borrower or Parent at the date of such designation of the Borrower’s or Parent’s or its respective Subsidiary’s (as applicable) Investment in such Subsidiary; provided that in no event shall any such Return on any Investment by the Borrower or Parent in an Unrestricted Subsidiary be duplicative of any Return that increases the Cumulative Credit pursuant to the definition thereof.

**SECTION 6.15 Maintenance of Ratings.** Use commercially reasonable efforts to maintain (i) a public corporate credit rating (but not any specific rating) from S&P and a public corporate family rating (but not any specific rating) from Moody’s, in each case, (x) at any time prior to the Amendment No. 1 Effective Date, in respect of the Borrower, and (y) at any time on or after the Amendment No. 1 Effective Date, in respect of Parent, and (ii) a public rating (but not any specific rating) in respect of each Class of Term Loans from each of S&P and Moody’s, unless a given Class has waived the requirement to maintain any rating for such Class at the time of establishment thereof pursuant to the applicable Loan Documents.

**SECTION 6.16 Use of Proceeds.** Use the proceeds of the Initial Term Loans to finance a portion of the Transactions and use the proceeds of the Term Loans (other than Initial Term Loans) only for general corporate purposes and working capital of the Borrower, Parent and its Subsidiaries and any other purpose not prohibited by this Agreement including Permitted Acquisitions, and other Investments.

**SECTION 6.17 Lender Meetings.** To the extent requested by the Administrative Agent or the Required Lenders, participate in a conference call (including a customary question and answer session) with the Administrative Agent and Lenders once during each fiscal quarter to be held at such time as may be agreed to by the Borrower and the Administrative Agent.

**SECTION 6.18 End of Fiscal Years** For financial reporting purposes, cause its fiscal year to end on any date other than December 31 (other than any Subsidiary acquired after the Closing Date); provided, however, that the Borrower or Parent may, upon written notice to the Administrative Agent, change its fiscal year to any other fiscal year reasonably acceptable to the Administrative Agent, in which case, the Borrower and the Administrative Agent will, and are hereby authorized by the Lenders to, make any adjustments to this Agreement that are necessary to reflect such change in fiscal year.

**SECTION 6.19 Lines of Business**. Parent, the Borrower and the Restricted Subsidiaries, taken as a whole, will not engage in any material line of business substantially different from those lines of business conducted by Parent, the Borrower and the Restricted Subsidiaries on the Amendment NO. 1 Effective Date or any business reasonably related, complementary, corollary, synergistic or ancillary thereto (including related, complementary, synergistic or ancillary technologies) or reasonable extensions thereof.

**SECTION 6.20 Communications Regulations**. Except as could not reasonably be expected to have a Material Adverse Effect, the Borrower, Parent and its Restricted Subsidiaries shall (i) take all actions reasonably necessary to maintain the FCC Authorizations in full force and effect, (ii) timely file renewal applications, (iii) remit any necessary regulatory fees, (iv) file any reports and information requested by the FCC, and (v) conduct its business in compliance with the terms of the FCC Authorizations and the Communications Act, including changes in applicable law and regulations that become effective during the terms of the FCC Authorizations.

**SECTION 6.21 Anti-Terrorism Law; Anti-Money Laundering; Embargoed Persons; Anti-Corruption; Licenses**.

(a) Except for Licensed Activities, conduct its business in such a manner so as to not, directly or indirectly, (i) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224 effective September 24, 2001 (the "**Executive Order**"), or (ii) engage in or conspire to engage in any transaction that violates, or attempts to violate, any Sanctions in any material respect.

(b) Repay the Loans exclusively with funds that are not derived from any unlawful activity such that the result of any such repayment would not cause the making of the Loans to be in material violation of any applicable Law, including the United States Foreign Corrupt Practices Act of 1977, as amended.

(c) Except for Licensed Activities, use funds or properties of Holdings, Parent, the Borrower or any of the Restricted Subsidiaries to repay the Loans only to the extent it does not constitute, to the knowledge of the Borrower, property of, or is beneficially owned, to the knowledge of the Borrower, directly or indirectly by, any Sanctioned Person.

(d) Maintain and enforce policies and procedures with respect to itself and its Subsidiaries designed to ensure compliance with applicable Sanctions.

**SECTION 6.22 ERISA Compliance**. Except where the failure to so comply would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect: (a) each Loan Party shall, and shall cause each ERISA Affiliate to, establish, maintain and operate all Plans and Foreign Plans in compliance in all material respects with the provisions of ERISA, the Code and all applicable Laws, the regulations and interpretation thereunder and the respective requirements of the governing documents for such Plans, and (b) the Borrower and Parent shall take, or shall cause to be taken, any and all actions required in order to be in compliance at all times with the representations and warranties in

**ARTICLE 7**  
**NEGATIVE COVENANTS**

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder (other than contingent obligations not yet due and owing as to which no claim has been asserted), then from and after the Closing Date, the Borrower and Parent shall not and shall not permit any of its Restricted Subsidiaries to, directly or indirectly:

**SECTION 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, other than the following:

(a) Liens (i) created pursuant to any Loan Document and (ii) on the Collateral securing other Secured Obligations;

(b) Liens existing on the Closing Date and listed on Schedule 7.01(b) and any modifications, replacements, renewals, restructurings, refinancings or extensions thereof, provided that (i) the Lien does not extend to any additional property other than (A) after-acquired property that is affixed or incorporated into the property covered by such Lien or financed by Indebtedness permitted under Section 7.03 and (B) proceeds and products thereof and (ii) the replacement, renewal, extension or refinancing of the obligations secured or benefitted by such Liens, to the extent constituting Indebtedness, is permitted by Section 7.03;

(c) Liens for taxes, assessments or governmental charges that are not overdue for a period of more than any applicable grace period related thereto or (i) that are being contested in good faith and by appropriate actions, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP to the extent required by GAAP or (ii) the failure to pay or discharge the same would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect;

(d) statutory or common law Liens of landlords, sub-landlords, carriers, warehousemen, mechanics, materialmen, repairmen, construction contractors or other like Liens, so long as, in each case, such Liens secure amounts not overdue for a period of more than 30 days or if more than 30 days overdue, are unfiled and no other action has been taken to enforce such Liens or that are being contested in good faith and by appropriate actions, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(e) (i) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation and (ii) pledges and deposits in the ordinary course of business securing liability for reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees for the benefit of) insurance carriers providing property, casualty or liability insurance to Parent or any of its Restricted Subsidiaries;

(f) pledges or deposits to secure the performance of bids, trade contracts, utilities, governmental contracts and leases (other than Indebtedness for borrowed money), statutory obligations, surety, stay, customs and appeal bonds, performance bonds and other obligations of a like nature (including those to secure health, safety and environmental obligations) incurred in the ordinary course of business;

(g) covenants, conditions, easements, rights-of-way, building codes, restrictions (including zoning restrictions), encroachments, licenses, protrusions and other similar encumbrances and minor title defects, in each case affecting Real Property and that do not in the aggregate materially interfere with the ordinary conduct of the business of Parent and its Restricted Subsidiaries, taken as a whole, and any exceptions on the Mortgage Policies issued in connection with the Mortgaged Properties;

(h) Liens (i) securing judgments or orders for the payment of money not constituting an Event of Default under Section 8.01(h), (ii) arising out of judgments or awards against Parent or any Restricted Subsidiary with respect to which an appeal or other proceeding for review is then being pursued and (iii) notices of *lis pendens* and associated rights related to litigation being contested in good faith by appropriate proceedings for which adequate reserves have been made;

(i) leases, licenses, subleases or sublicenses (including licenses and sublicenses of software and other IP Rights) and terminations thereof, in each case either granted to others with respect to IP Rights that are not material to the business of Parent and Restricted Subsidiaries or in the ordinary course of business, which (i) do not interfere in any material respect with the business of Parent and its Restricted Subsidiaries, taken as a whole, (ii) do not secure any Indebtedness and (iii) are permitted by Section 7.05;

(j) Liens (i) 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 in the ordinary course of business or (ii) on specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances or letters of credit issued or created for the account of such person to facilitate the purchase, shipment or storage of such inventory or other goods in the ordinary course of business;

(k) Liens (i) of a collection bank arising under Section 4-208 of the Uniform Commercial Code on items in the course of collection, (ii) attaching to commodity trading accounts or other commodities brokerage accounts incurred in the ordinary course of business, (iii) in favor of a banking or other financial institution arising as a matter of Law or under customary general terms and conditions encumbering deposits or other funds maintained with a financial institution (including the right of set-off) and that are within the general parameters customary in the banking industry or arising pursuant to such banking institution's general terms and conditions, and (iv) that are contractual rights of setoff or rights of pledge relating to purchase orders and other agreements entered into with customers of Parent or any of its Restricted Subsidiaries in the ordinary course of business;

(l) Liens (i) on cash advances in favor of the seller of any property to be acquired in an Investment permitted pursuant to Sections 7.02(g), (i) and (n) or to the extent related to any of the foregoing, Section 7.02(s), to be applied against the purchase price for such Investment, and (ii) consisting of an agreement to Dispose of any property in a Disposition permitted under Section 7.05, in each case, solely to the extent such Investment or Disposition, as the case may be, would have been permitted on the date of the creation of such Lien;

(m) Liens (i) in favor of Parent, Holdings, the Borrower or any Subsidiary Guarantor and (ii) in favor of a Restricted Subsidiary that is not a Loan Party on assets of a Restricted Subsidiary that is not a Loan Party securing Indebtedness permitted under Section 7.03;

(n) any interest or title of a lessor, sub-lessor, licensor or sub-licensor under leases, subleases, licenses or sublicenses entered into by Parent or any of its Restricted Subsidiaries in the

ordinary course of business or with respect to IP Rights that are not material to the business of Parent and its Restricted Subsidiaries;

(o) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into by Parent or any of its Restricted Subsidiaries in the ordinary course of business permitted by this Agreement;

(p) Liens deemed to exist in connection with Investments in repurchase agreements permitted under Section 7.02;

(q) Liens encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts incurred in the ordinary course of business and not for speculative purposes;

(r) Liens that are contractual rights of set-off or rights of pledge (i) relating to the establishment of depository relations with banks or other deposit-taking financial institutions and not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposit or sweep accounts of Parent or any of its Restricted Subsidiaries to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of Parent or any of its Restricted Subsidiaries or (iii) relating to purchase orders and other agreements entered into with customers of Parent or any of its Restricted Subsidiaries in the ordinary course of business;

(s) Liens solely on any cash earnest money deposits made by Parent or any of its Restricted Subsidiaries in connection with any letter of intent or purchase agreement permitted hereunder;

(t) ground leases in respect of Real Property on which facilities owned or leased by Parent or any of its Restricted Subsidiaries are located;

(u) Liens to secure Indebtedness permitted under Section 7.03(e); provided that (i) such Liens are created within 270 days of the acquisition, construction, repair, lease or improvement of the property subject to such Liens, (ii) such Liens do not at any time encumber property (except for replacements, additions, accessions and proceeds to such property) other than the property financed by such Indebtedness and the proceeds and products thereof and customary security deposits and (iii) with respect to Capitalized Leases, such Liens do not at any time extend to or cover any assets (except for replacements, additions and accessions to such assets) other than the assets subject to such Capitalized Leases and the proceeds and products thereof and customary security deposits; provided that individual financings of equipment provided by one lender may be cross collateralized to other financings of equipment provided by such lender;

(v) Liens on property of any Restricted Subsidiary that is not a Loan Party, which Liens secure Indebtedness of any Restricted Subsidiary that is not a Loan Party permitted under Section 7.03;

(w) Liens existing on property at the time of its acquisition or existing on the property of any Person at the time such Person becomes a Restricted Subsidiary (other than by designation as a Restricted Subsidiary pursuant to Section 6.14) (other than Liens on the Equity Interests of any Person that becomes a Restricted Subsidiary to the extent such Equity Interests are owned by Parent or another Restricted Subsidiary) or Liens to secure Indebtedness otherwise incurred pursuant to Section 7.03(g) to finance a Permitted Acquisition, in each case after the Closing Date; provided that (i) such Lien either (A) secures Indebtedness incurred pursuant to Section 7.03(g) to finance a Permitted Acquisition or (B)(x) was not created in contemplation of such acquisition or such Person becoming a

Restricted Subsidiary and (y) does not extend to or cover any other assets or property (other than the proceeds, products and accessions thereof and other than after-acquired property subjected to a Lien securing Indebtedness and other obligations incurred prior to such time and which Indebtedness and other obligations are permitted hereunder that require, pursuant to their terms at such time, a pledge of after-acquired property, it being understood that such requirement shall not be permitted to apply to any property to which such requirement would not have applied but for such acquisition) and (ii) the Indebtedness secured thereby is permitted under Section 7.03(g);

(x) (i) zoning, building, entitlement and other land use regulations by Governmental Authorities with which the normal operation of the business complies, and (ii) any zoning or similar law or right reserved to or vested in any Governmental Authority to control or regulate the use of any Real Property that does not materially interfere with the ordinary conduct of the business of Parent and its Restricted Subsidiaries, taken as a whole;

(y) Liens arising from precautionary Uniform Commercial Code financing statement or similar filings;

(z) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(aa) the modification, replacement, renewal or extension of any Lien permitted by Sections 7.01(b), (u) and (w); provided that (i) the Lien does not extend to any additional property, other than (A) after-acquired property that is affixed or incorporated into the property covered by such Lien and (B) proceeds and products thereof, and (ii) the renewal, extension, restructuring or refinancing of the obligations secured or benefited by such Liens is permitted by Section 7.03 (to the extent constituting Indebtedness);

(bb) Liens with respect to property or assets of Parent or any of its Restricted Subsidiaries securing obligations in an aggregate principal amount outstanding at any time not to exceed the greater of \$18,750,000 and 25% of LTM EBITDA, in each case determined as of the date of incurrence;

(cc) Liens to secure Indebtedness permitted under Section 7.03(s) and guaranties thereof;

(dd) Liens on the Collateral securing obligations in respect of Permitted Second Priority Refinancing Debt or Permitted Junior Priority Refinancing Debt and any Permitted Refinancing of any of the foregoing;

(ee) Liens on specific items of inventory or other goods and the proceeds thereof securing such Person's obligations in respect of documentary letters of credit or banker's acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or goods;

(ff) deposits of cash with the owner or lessor of premises leased and operated by Parent or any of its Subsidiaries to secure the performance of Parent's or such Subsidiary's obligations under the terms of the lease for such premises;

(gg) [reserved];

(hh) [reserved];

(ii) Liens on property of any Foreign Subsidiary securing Indebtedness of such Foreign Subsidiary permitted under Section 7.03;

(jj) Liens on the Collateral securing (i) Indebtedness incurred pursuant to Section 7.03(w), (ii) related First Lien Secured Obligations under the First Lien Loan Documents governing such Indebtedness and (iii) all Hedging Obligations and Cash Management Obligations (each as defined in the Closing Date Intercreditor Agreement) and guaranties thereof constituting First Lien Secured Obligations, which Liens shall be subject to an applicable Intercreditor Agreement;

(kk) Liens on the Collateral securing Indebtedness incurred pursuant to Section 7.03(y);

(ll) in the case of any non-wholly owned Restricted Subsidiary, any put and call arrangements or restrictions on disposition related to its Equity Interests set forth in its organizational documents or any related joint venture or similar agreement;

(mm) Liens securing Swap Contracts so long as (x) such Swap Contracts do not constitute Secured Hedge Agreements and (y) the value of the property securing such Swap Contracts does not exceed \$6,250,000 at any time;

(nn) Liens on property incurred pursuant to any sale-leaseback transaction permitted hereunder and general intangibles related thereto;

(oo) any restriction on the transfer or pledge of assets contained in any License or otherwise imposed by the Communications Act or any FCC Authorization or comparable state or local legislation, regulations or ordinances or otherwise imposed by Law;

(pp) Liens arising by operation of law in the United States under Article 2 of the UCC in favor of a reclaiming seller of goods or buyer of goods; and

(qq) Liens on the Collateral securing Permitted Debt Exchange Notes (and Permitted Refinancings thereof) incurred pursuant to Section 7.03(cc).

**SECTION 7.02 Investments.** Make or hold any Investments, except:

(a) Investments by Parent or any of its Restricted Subsidiaries in assets that were cash or Cash Equivalents when such Investment was made;

(b) loans or advances to officers, directors and employees of any Loan Party (or any direct or indirect parent thereof) or any of its Restricted Subsidiaries (i) for reasonable and customary business-related travel, entertainment, relocation and analogous ordinary business purposes, (ii) in connection with such Person's purchase of Equity Interests of Holdings or any direct or indirect parent thereof or to permit the payment of taxes with respect thereto; provided that, to the extent such loans or advances are made in cash, the amount of such loans and advances used to acquire such Equity Interests shall be contributed to Parent in cash as common equity; provided, further, that the aggregate principal amount outstanding at any time under this clause (ii) shall not exceed \$9,375,000, and (iii) for any other purposes not described in the foregoing clauses (i) and (ii); provided that the aggregate principal amount outstanding at any time under this clause (iii) shall not exceed \$3,125,000;

(c) Investments (i) by Parent or any Restricted Subsidiary in any Loan Party, (ii) by any Restricted Subsidiary that is not a Loan Party in any other Restricted Subsidiary that is not a Loan Party and (iii) by any Loan Party in any Restricted Subsidiary that is not a Loan Party; provided that (A) no such Investments made pursuant to clause (iii) in the form of intercompany loans shall be evidenced by a promissory note unless any such promissory note constituting a negotiable instrument is pledged to the Administrative Agent in accordance with the terms of the Security Agreement, (B) any Investments in the form of intercompany loans constituting Indebtedness of any Loan Party owed to any Restricted Subsidiary that is not a Loan Party shall be unsecured and subordinated to the Obligations on terms consistent with the subordination provisions of the Intercompany Note and (C) the aggregate amount of Investments made pursuant to clause (iii) (excluding any Investments received in respect of, or consisting of, the transfer or contribution of Equity Interests in or Indebtedness of any Foreign Subsidiary to any other Foreign Subsidiary that is a Restricted Subsidiary) shall not exceed at any time outstanding the sum of (x) the greater of \$25,000,000 and 37.5% of LTM EBITDA (valued at the time of the making thereof), and (y) the Cumulative Credit at such time provided that, if such Investment is made pursuant to this clause (y) (other than (i) any Investment made using the portion of the Cumulative Credit described in clause (a) of the definition thereof, in which case no Event of Default pursuant to Section 8.01(a) or (f) shall have occurred and be continuing, or (ii) any Investment made using the portion of the Cumulative Credit described in clause (c)(i) of the definition thereof), no Event of Default shall have occurred and be continuing;

(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 from financially troubled account debtors and other credits to suppliers in the ordinary course of business;

(e) Investments (excluding loans and advances made in lieu of Restricted Payments pursuant to and limited by Section 7.02(m) below) consisting of transactions permitted under Sections 7.01, 7.03 (other than 7.03(c) and (d)), Section 7.04 (other than Section 7.04(c)(ii) or (e)), Section 7.05 (other than Section 7.05(d)(ii) or (e)), Section 7.06 (other than Section 7.06(d) or (h)(iv)) and Section 7.13, respectively;

(f) Investments (i) existing or contemplated on the Amendment No. 1 Effective Date or made pursuant to legally binding written contracts in existence on the Amendment No. 1 Effective Date, in each case set forth on Schedule 7.02(f) and any modification, replacement, renewal, reinvestment or extension thereof and (ii) existing on the Amendment No. 1 Effective Date by the Borrower or any Restricted Subsidiary in the Borrower or any other Restricted Subsidiary and any modification, renewal or extension thereof; provided that (x) the amount of the original Investment is not increased except by the terms of such Investment or as otherwise permitted by this Section 7.02 and (y) any Investment in the form of Indebtedness of any Loan Party owed to any Restricted Subsidiary that is not a Loan Party shall be subject to subordination terms substantially consistent with the terms of the Intercompany Note;

(g) Investments in Swap Contracts permitted under Section 7.03;

(h) promissory notes, securities and other non-cash consideration received in connection with Dispositions permitted by Section 7.05;

(i) any acquisition of all or substantially all the assets of a Person or any Equity Interests in a Person that becomes a Restricted Subsidiary or division or line of business of a Person (or any subsequent Investment made in a Person, division or line of business previously acquired in a Permitted Acquisition), in a single transaction or series of related transactions, if no Event of Default under Sections 8.01(a) or (f) exists on the date that Parent or the applicable Restricted Subsidiary enters

into a binding agreement with respect to such acquisition and, immediately after giving effect to such acquisition, (i) any acquired or newly formed Restricted Subsidiary shall not be liable for any Indebtedness except for Indebtedness otherwise permitted by Section 7.03; (ii) to the extent required by the Collateral and Guarantee Requirement, (A) the property, assets and businesses acquired in such purchase or other acquisition shall constitute Collateral and (B) any such newly created or acquired Restricted Subsidiary (other than an Excluded Subsidiary or an Unrestricted Subsidiary) shall become a Guarantor, in each case, in accordance with Section 6.11; and (iii) the aggregate amount of Investments by Loan Parties pursuant to this Section 7.02(i) in assets (other than Equity Interests) that are not (or do not become at the time of such acquisition) directly owned by a Loan Party or in Equity Interests of Persons that do not become Loan Parties shall not exceed \$62,500,000 (any such acquisition, a “**Permitted Acquisition**”);

(j) Investments made in connection with the Transactions;

(k) Investments in the ordinary course of business consisting of UCC Article 3 endorsements for collection or deposit and UCC Article 4 customary trade arrangements with customers consistent with past practices;

(l) Investments (including debt obligations and Equity Interests) received in connection with the bankruptcy or reorganization of suppliers and customers or in settlement of delinquent obligations of, or other disputes with, customers and suppliers arising in the ordinary course of business or upon the foreclosure with respect to any secured Investment or other transfer of title with respect to any secured Investment;

(m) loans and advances to any direct or indirect parent of Parent, in lieu of and not in excess of the amount of (after giving effect to any other loans, advances or Restricted Payments in respect thereof) Restricted Payments to the extent permitted to be made to such parent in accordance with Section 7.06(f), (g) or (h), such Investment being treated for purposes of the applicable clause of Section 7.06, including any limitations, as if a Restricted Payment had been made pursuant to such clause;

(n) Investments (including Permitted Acquisitions) in an aggregate amount pursuant to this Section 7.02(n) (valued at the time of the making thereof, and without giving effect to any write downs or write offs thereof) at any time not to exceed (x) the greater of \$25,000,000 and 37.5% of LTM EBITDA *plus* (y) the Cumulative Credit at such time; provided that if such Investment is made pursuant to this clause (y) (other than (i) any Investment made using the portion of the Cumulative Credit described in clause (a) of the definition thereof, in which case no Event of Default pursuant to Section 8.01(a) or (f) shall have occurred and be continuing, or (ii) any Investment made using the portion of the Cumulative Credit described in clause (c) (i) of the definition thereof), no Event of Default shall have occurred and be continuing;

(o) Investments made in respect of joint ventures or other similar agreements or partnership not to exceed \$37,500,000;

(p) [reserved];

(q) advances of payroll payments to employees in the ordinary course of business;

(r) (i) Investments made in the ordinary course of business in connection with obtaining, maintaining or renewing client contracts and loans or advances made to distributors and suppliers in the ordinary course of business and (ii) Investments to the extent that payment for such

Investments is made with or exchanged for Equity Interests of Holdings permitted to be issued hereunder (or any direct or indirect parent of the Borrower);

(s) Investments of a Restricted Subsidiary acquired after the Closing Date in accordance with Section 7.02 or of a Person merged or amalgamated or consolidated into Parent or merged, amalgamated or consolidated with a Restricted Subsidiary in accordance with Section 7.04 after the Closing Date to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger or consolidation;

(t) Investments made by a Restricted Subsidiary that is not a Loan Party to the extent such Investments are financed with the proceeds received by such Restricted Subsidiary from an Investment in such Restricted Subsidiary by a Loan Party permitted under this Section 7.02;

(u) intercompany receivables that arise solely from customary transfer pricing arrangements among Parent and its Restricted Subsidiaries in each case in the ordinary course of business;

(v) Investments funded with Excluded Contributions;

(w) Investments in deposit accounts, securities accounts and commodities accounts maintained by Parent or such Restricted Subsidiary, as the case may be;

(x) Investments constituting any part of a reorganization and other activities related to tax planning or tax reorganization that do not impair the security interests granted to the Administrative Agent for the benefit of the Secured Parties in any material respect and are otherwise not materially adverse to the Lenders and after giving effect to such Investment, reorganization or other activity, Parent, Holdings, Borrower and the Restricted Subsidiaries comply with Section 6.11;

(y) the GEE Acquisition; and

(z) so long as no Event of Default has occurred and is continuing or would result therefrom, Parent or any Restricted Subsidiary may make Investments in an unlimited amount so long as the Consolidated Total Net Leverage Ratio (calculated on a Pro Forma Basis) as of the end of the most recent Test Period is no greater than 3.00:1.00.

To the extent an Investment is permitted to be made by a Loan Party directly in any Restricted Subsidiary or any other Person who is not a Loan Party (each such person, a “**Target Person**”) under any provision of this Section 7.02, such Investment may be made by advance, contribution or distribution by a Loan Party to a Restricted Subsidiary, or Holdings or Parent, and further advanced or contributed to a Restricted Subsidiary for purposes of making the relevant Investment in the Target Person without constituting an Investment for purposes of Section 7.02 (it being understood that such Investment must satisfy the requirements of, and shall count towards any thresholds in, a provision of this Section 7.02 as if made by the applicable Loan Party directly to the Target Person).

**SECTION 7.03 Indebtedness.** Create, incur, assume or suffer to exist any Indebtedness, except:

(a) Indebtedness of any Loan Party under the Loan Documents;

(b) Indebtedness outstanding on the Closing Date and listed on Schedule 7.03(b) and any Permitted Refinancing thereof; provided that all such Indebtedness of any Loan Party owed to any Restricted Subsidiary that is not a Loan Party shall be unsecured and subordinated to the Obligations pursuant to an Intercompany Note;

(c) Guarantees by Parent and any Restricted Subsidiary in respect of Indebtedness of Parent or any Restricted Subsidiary otherwise permitted hereunder; provided that (A) no Guarantee by any Restricted Subsidiary of any Indebtedness constituting a Specified Junior Financing Obligation shall be permitted unless such guaranteeing party shall have also provided a Guarantee of the Obligations on the terms set forth herein, (B) 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 (as reasonably determined by Parent) to the Lenders as those contained in the subordination of such Indebtedness and (C) any Guarantee by a Restricted Subsidiary that is not a Loan Party of any Permitted Ratio Debt or Indebtedness under Section 7.03(g) or (m) (or any Permitted Refinancing in respect thereof) shall only be permitted if such Guarantee meets the requirements of clauses (s), (g) or (m), as the case may be, of this Section 7.03;

(d) Indebtedness of Parent or any Restricted Subsidiary owing to any Loan Party or any other Restricted Subsidiary (or issued or transferred to any direct or indirect parent of a Loan Party which is substantially contemporaneously transferred to a Loan Party or any Restricted Subsidiary of a Loan Party) to the extent constituting an Investment permitted by Section 7.02; provided that (x) no such Indebtedness owed to a Loan Party shall be evidenced by a promissory note unless such promissory note constitutes a negotiable instrument and is pledged to the Administrative Agent in accordance with the terms of the Security Agreement and (y) all such Indebtedness of any Loan Party owed to any Restricted Subsidiary that is not a Loan Party shall be unsecured and subordinated to the Obligations pursuant to subordination terms substantially consistent with the terms of the Intercompany Note;

(e) (i) Attributable Indebtedness and other Indebtedness (including Capitalized Leases) financing an acquisition, construction, repair, replacement, lease or improvement of a fixed or capital asset incurred by Parent or any Restricted Subsidiary prior to or within 270 days after the acquisition, lease or improvement of the applicable asset and any Permitted Refinancing thereof in an aggregate amount not to exceed the greater of \$25,000,000 and 37.5% of LTM EBITDA, in each case determined at the time of incurrence (together with any Permitted Refinancings thereof) at any time outstanding and (ii) Attributable Indebtedness arising out of sale-leaseback transactions permitted by Section 7.05(m) and any Permitted Refinancing of such Attributable Indebtedness;

(f) Indebtedness in respect of Swap Contracts designed to hedge against Parent's or any Restricted Subsidiary's exposure to interest rates, foreign exchange rates or commodities pricing risks incurred in the ordinary course of business and not for speculative purposes and Guarantees thereof;

(g) Indebtedness of Parent or any Restricted Subsidiary (i) assumed in connection with any Permitted Acquisition (provided that such Indebtedness is not incurred in contemplation of such Permitted Acquisition) or any Permitted Refinancing thereof or (ii) incurred to finance any Permitted Acquisition or any Permitted Refinancing thereof; provided that after giving *pro forma* effect to such Permitted Acquisition and the assumption or incurrence of such Indebtedness, as applicable, the aggregate amount of such Indebtedness does not exceed (x) \$25,000,000, *plus* (y) any additional amount of such Indebtedness so long as the Consolidated Total Net Leverage Ratio (determined on a Pro Forma Basis in accordance with Section 1.09 and without netting the cash proceeds of any such Indebtedness for the purposes of such calculation) is no greater than 5.00 to 1.00 and, if such Indebtedness is to be secured on a first priority basis, it shall be designated as "Additional First Lien Debt" under (and as defined in) the Closing Date Intercreditor Agreement and the Consolidated Senior Secured Net Leverage Ratio

(determined on a Pro Forma Basis in accordance with Section 1.09 and without netting the cash proceeds of any such Indebtedness for the purposes of such calculation and treating all refinancing Indebtedness in respect of such Indebtedness that is unsecured or secured on a junior lien basis to the Term Loans as at all times being secured on a first priority basis (unless Parent complies with the Consolidated Total Net Leverage Ratio described in preceding clause (y) above at the time of the incurrence of such refinancing Indebtedness)) is no greater than 3.50 to 1.00, in each case determined on a Pro Forma Basis; provided that in the case of clause (y), any such Indebtedness assumed or incurred by a Restricted Subsidiary that is not a Loan Party (together with any Indebtedness assumed or incurred by a Restricted Subsidiary that is not a Loan Party pursuant to Section 7.03(s)) does not exceed in the aggregate at any time outstanding the greater of \$12,500,000 and 18.75% of LTM EBITDA, in each case determined at the time of assumption or incurrence; provided, further, that in the case of clause (ii), (A) such Indebtedness does not have a Weighted Average Life to Maturity less than the remaining Weighted Average Life to Maturity of any then outstanding Term Loans and meets the Permitted Other Debt Conditions, (B) no Event of Default shall exist or result therefrom (other than a Permitted Acquisition or a permitted Investment made pursuant to a legally binding commitment entered into at that time when no Event of Default exists or would result therefrom), (C) such Indebtedness may be in the form of (x) one or more series of notes which may be unsecured or secured on a first lien, *pari passu* or junior basis with the Facilities or (y) one or more series of loans which may be unsecured or secured on a junior lien basis with respect to the Facilities and (D) the terms of any such Indebtedness that are not substantially identical to the then existing Loans shall be not materially more favorable (taken as a whole) to the investors providing such Indebtedness than those applicable to the then existing Loans or otherwise reasonably acceptable to the Administrative Agent (except for (x) covenants or other provisions applicable only to periods after the Maturity Date of the Initial Term Loans existing at the time of incurrence of such Indebtedness and (y) any financial maintenance covenant to the extent such covenant is also added for the benefit of the Lenders hereunder under any applicable existing corresponding Facility) or reflect market terms on the date of issuance, as determined by Parent;

(h) Indebtedness representing deferred compensation to employees of Parent or any of its Restricted Subsidiaries incurred in the ordinary course of business;

(i) Indebtedness consisting of promissory notes issued by Parent or any of its Restricted Subsidiaries to current or former officers, managers, consultants, directors and employees, their respective estates, spouses or former spouses to finance the purchase or redemption of Equity Interests of Parent or any direct or indirect parent of Parent permitted by Section 7.06; provided that such Indebtedness shall be subordinated in right of payment to the Obligations on terms reasonably satisfactory to the Administrative Agent;

(j) Indebtedness incurred by Parent or any of its Restricted Subsidiaries in a Permitted Acquisition, any other Investment permitted hereunder (including through a merger) or any Disposition permitted hereunder, in each case, constituting indemnification obligations or obligations in respect of purchase price (including earnouts) or other similar adjustments;

(k) Indebtedness consisting of obligations of Parent or any of its Restricted Subsidiaries under deferred compensation or other similar arrangements incurred by such Person in connection with the Transactions, and Permitted Acquisitions or any other Investment permitted hereunder;

(l) Cash Management Obligations (as defined in the First Lien Credit Agreement) and other Indebtedness in respect of netting services, automatic clearinghouse arrangements, overdraft protections, employee credit card programs and other cash management and similar arrangements in the ordinary course of business and any Guarantees thereof or the honoring by a bank or other financial

institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business, so long as such Indebtedness is extinguished in the ordinary course of business;

(m) Indebtedness in an aggregate principal amount that at the time of, and after giving effect to, the incurrence thereof, would not exceed the greater of \$25,000,000 and 37.5% of LTM EBITDA determined at the time of incurrence;

(n) Indebtedness consisting of (i) the financing of insurance premiums or (ii) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business;

(o) Indebtedness incurred by Parent or any of its Restricted Subsidiaries in respect of letters of credit, bank guarantees, bankers' acceptances, warehouse receipts or similar instruments issued or created in the ordinary course of business, including 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 reimbursement-type obligations regarding workers' compensation claims;

(p) obligations in respect of performance, bid, appeal and surety bonds and performance and completion guarantees and similar obligations provided by Parent or any of its Restricted Subsidiaries or obligations in respect of letters of credit, bank guarantees or similar instruments related thereto, in each case in the ordinary course of business or consistent with past practice;

(q) letters of credit issued in currencies not available hereunder in an aggregate amount at any time outstanding not to exceed \$18,750,000;

(r) Indebtedness supported by a letter of credit issued under the First Lien Credit Agreement, in a principal amount not to exceed the face amount of such letter of credit;

(s) Permitted Ratio Debt and any Permitted Refinancing thereof;

(t) Credit Agreement Refinancing Indebtedness;

(u) Indebtedness incurred by a Foreign Subsidiary which, when aggregated with the principal amount of all other Indebtedness incurred pursuant to this Section 7.03(u) and then outstanding for all such Persons taken together, does not exceed the greater of \$18,750,000 and 25% of LTM EBITDA determined at the time of incurrence;

(v) Indebtedness of Parent and its Restricted Subsidiaries in respect of seller financing in an aggregate amount not to exceed \$12,500,000 at any time and any Permitted Refinancing thereof;

(w) (i) Indebtedness under the First Lien Credit Agreement in an aggregate principal amount not to exceed (A) \$303,000,000, plus (B) the product of (x) the amount of any First Lien Incremental Term Loans, any Incremental Revolving Credit Commitments or First Lien Incremental Equivalent Debt, in each case, under and pursuant to, and incurred in accordance with the terms of, the First Lien Credit Agreement, multiplied by (y) 120%; provided that, if the First Lien Credit Agreement is amended, restated, modified, waived, supplemented or replaced following the Closing Date, this clause (B) shall in no event allow on any date of determination an aggregate principal amount of Indebtedness to be incurred pursuant to this clause (B) that is in excess of the product of (x) the aggregate principal amount that could have been incurred on such date pursuant to the provisions of Section 2.14 of the First

Lien Credit Agreement as in effect on the Closing Date multiplied by (y) 120%, and (ii) any Permitted Refinancing in respect of any of the foregoing Indebtedness;

(x) Indebtedness in an amount equal to 100% of the Net Proceeds received by Parent from the issuance or sale of Equity Interests of Parent since the Amendment No. 1 Effective Date (other than proceeds of Disqualified Equity Interests or the Cure Amount or sales of Equity Interests to any of its Subsidiaries) to the extent such Net Proceeds have not been applied pursuant to Section 7.02, 7.06 or 7.13 (and do not otherwise increase the Cumulative Credit or the Excluded Contribution and are not used to fund Equity Funded Employee Plan Costs) (“**Contribution Indebtedness**”); provided that such Indebtedness is designated as “Contribution Indebtedness” in a certificate from a Responsible Officer of the Borrower on the date incurred;

(y) (i) Indebtedness (in the form of (x) one or more series of notes which may be unsecured, secured on a junior lien basis with the Facilities or secured on a *pari passu* basis with the Facilities or (y) one or more series of loans which may be unsecured or secured on a junior lien basis with respect to the Facilities incurred by the Borrower or Parent to the extent that the Borrower or Parent shall have been permitted to incur such Indebtedness pursuant to and such Indebtedness shall be deemed to be incurred in reliance on Section 2.14(d)(iv); provided that (A) such Indebtedness shall not mature earlier than the Maturity Date applicable to the Initial Term Loans, (B) as of the date of the incurrence of such Indebtedness, the Weighted Average Life to Maturity of such Indebtedness shall not be shorter than that of the Initial Term Loans, (C) no Restricted Subsidiary is a borrower or guarantor with respect to such Indebtedness unless such Restricted Subsidiary is a Subsidiary Guarantor which shall have previously or substantially concurrently Guaranteed the Obligations and (D) the other terms and conditions of such Indebtedness (excluding pricing and optional prepayment or redemption terms) reflect market terms on the date of issuance (as determined by the Borrower) (such Indebtedness incurred pursuant to this clause (y) being referred to as “**Incremental Equivalent Debt**”) and (ii) any Permitted Refinancing thereof;

(z) the Convertible Notes in an aggregate principal amount not to exceed \$82,500,000;

(aa) obligations in respect of Disqualified Equity Interests in an amount not to exceed \$3,125,000 at any time outstanding;

(bb) all premiums (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in Sections 7.03(a) through Section 7.03(aa) and Section 7.03(cc); and

(cc) Indebtedness in respect of Permitted Debt Exchange Notes incurred or issued in accordance with Section 2.18 (and Permitted Refinancings thereof);

provided, however, that all Indebtedness permitted by this Section 7.03 which is permitted to be secured pursuant to Section 7.01 and is secured by the Collateral shall be subject to the following: (1) in the case of the Indebtedness described in Section 7.03(w), all such Indebtedness incurred on the Closing Date shall constitute “First Lien Credit Agreement Secured Obligations” under (and as defined in) the Closing Date Intercreditor Agreement and the First Lien Administrative Agent acting on behalf of the holders of such Indebtedness shall have become party to the Closing Date Intercreditor Agreement on the Closing Date; (2) in the case of such Indebtedness incurred after the Closing Date, all such Indebtedness shall either constitute “First Lien Credit Agreement Secured Obligations”, “Second Lien Credit Agreement Secured Obligations” or shall be designated by the Borrower as “Additional First Lien Debt” or “Additional Second Lien Debt” (in each case as defined in the Closing Date Intercreditor Agreement) or otherwise constitute Indebtedness secured by Liens that are subordinated to the Liens securing the Obligations

(“**Junior Secured Financing**”), (3) a Representative acting on behalf of the holders of such Indebtedness shall have become party to or otherwise subject to the provisions of the Closing Date Intercreditor Agreement, (4) if such Indebtedness is designated as “Additional First Lien Debt” (as defined in the Closing Date Intercreditor Agreement), a Representative acting on behalf of the holders of such Indebtedness shall have become party to or otherwise subject to the provisions of a Parity Intercreditor Agreement; provided, further, that if such Indebtedness is the initial issuance of Indebtedness designated as “Additional First Lien Debt” thereunder, then the Borrower, Holdings, Parent, the Subsidiary Guarantors, the Administrative Agent and the Representative for such Indebtedness shall have executed and delivered a Parity Intercreditor Agreement, (5) if such Indebtedness is designated as “Additional Second Lien Debt” (as defined in the Closing Date Intercreditor Agreement), a Representative acting on behalf of the holders of such Indebtedness shall have become party to or otherwise subject to the provisions of a Parity Intercreditor Agreement; provided, further, that if such Indebtedness is the initial issuance of Indebtedness designated as “Additional Second Lien Debt” thereunder, then the Borrower, Holdings, Parent, the Subsidiary Guarantors, the Administrative Agent and the Representative for such Indebtedness shall have executed and delivered a Parity Intercreditor Agreement, and (6) with respect to any Junior Secured Financing, the Representative of such Indebtedness shall have entered into an intercreditor agreement reasonably satisfactory to the Administrative Agent or an amendment to the Closing Date Intercreditor Agreement reasonably satisfactory to the Administrative Agent, in each case to provide for such Liens to be subordinated to the Liens securing the Obligations.

For purposes of determining compliance with any Dollar-denominated restriction on the incurrence of Indebtedness, the Dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term debt, or first committed, in the case of revolving credit debt; provided that if such Indebtedness is incurred to extend, replace, refund, refinance, renew or defease other Indebtedness denominated in a foreign currency, and such extension, replacement, refunding, refinancing, renewal or defeasance would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such extension, replacement, refunding, refinancing, renewal or defeasance, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being extended, replaced, refunded, refinanced, renewed or defeased, *plus* the aggregate amount of fees, underwriting discounts, premiums (including tender premiums) and other costs and expenses (including OID) incurred in connection with such refinancing.

The accrual of interest, the accretion of accreted value and the payment of interest in the form of additional Indebtedness shall not be deemed to be an incurrence of Indebtedness for purposes of this Section 7.03. The principal amount of any non-interest bearing Indebtedness or other discount security constituting Indebtedness at any date shall be the principal amount thereof that would be shown on a balance sheet of Parent dated such date prepared in accordance with GAAP.

For purposes of determining compliance with this Section 7.03, in the event that an item of Indebtedness meets the criteria of more than one of the categories of Indebtedness described in described in Sections 7.03(a) through 7.03(cc), Parent shall, in its sole discretion, classify and reclassify or later divide, classify or reclassify such item of Indebtedness (or any portion thereof) and will only be required to include the amount and type of such Indebtedness in one or more of the above clauses; provided that (w) all Indebtedness outstanding under the Loan Documents will at all times be deemed to be outstanding in reliance only on the exception in Section 7.03(a).

**SECTION 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 related transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person (other than as part of the Transactions), except that:

(a) any Restricted Subsidiary (other than the Borrower) may merge, amalgamate or consolidate with (i) Parent or the Borrower (including a merger, the purpose of which is to reorganize Parent or the Borrower into a new jurisdiction); provided that in any such merger, amalgamation or consolidation involving Parent, Parent shall be the continuing or surviving Person, and in any such merger, amalgamation or consolidation involving the Borrower, the Borrower shall be the continuing or surviving Person or (ii) one or more other Restricted Subsidiaries (other than the Borrower); provided that when any Person that is a Loan Party is merging with a Restricted Subsidiary that is not a Loan Party, the Loan Party shall be the continuing or surviving Person or the surviving entity shall substantially concurrently become a Loan Party; provided, further, that any security interests granted to the Administrative Agent for the benefit of the Secured Parties in the Collateral pursuant to the Collateral Documents shall remain in full force and effect and perfected (to at least the same extent as in effect immediately prior to such merger, consolidation, dissolution or liquidation) and all actions required to maintain said perfected status have been or will promptly be taken, in each case, as required by Sections 6.11 or 6.13 to the extent required pursuant to the Collateral and Guarantee Requirement;

(b) (i) any Restricted Subsidiary that is not a Loan Party may merge, amalgamate or consolidate with or into any other Restricted Subsidiary that is not a Loan Party, (ii) any Restricted Subsidiary (other than the Borrower) may liquidate or dissolve and (iii) any Restricted Subsidiary (other than the Borrower) may change its legal form if, with respect to clauses (ii) and (iii), the Borrower determines in good faith that such action is in the best interest of Parent and its Restricted Subsidiaries and is not materially disadvantageous to the Lenders (it being understood that in the case of any change in legal form, a Subsidiary that is a Guarantor will remain a Guarantor unless such Guarantor is otherwise permitted to cease being a Guarantor hereunder);

(c) any Restricted Subsidiary (other than the Borrower) may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to Parent, Holdings or the Borrower or to another Restricted Subsidiary; provided that if the transferor in such a transaction is a Guarantor, then (i) the transferee must be a Subsidiary Guarantor or Parent, Holdings or the Borrower or (ii) to the extent constituting an Investment, such Investment must be a permitted Investment in or Indebtedness of a Restricted Subsidiary which is not a Loan Party in accordance with Sections 7.02 (other than Section 7.02(e) or 7.02(h)) and 7.03 (other than Section 7.03(c) and (d)), respectively;

(d) so long as no Event of Default has occurred and is continuing or would result therefrom, Parent or the Borrower may merge or consolidate with any other Person; provided that (i) in any such merger or consolidation involving Parent, Parent shall be the continuing or surviving Person, and in any such merger or consolidation involving the Borrower, the Borrower shall be the continuing or surviving Person; provided, further, that any security interests granted to the Administrative Agent for the benefit of the Secured Parties in the Collateral pursuant to the Collateral Documents shall remain in full force and effect and perfected (to at least the same extent as in effect immediately prior to such merger, consolidation, dissolution or liquidation), the Successor Company shall, to the extent subject to the terms hereof, have complied with the requirements of Section 6.11 and all actions required to maintain said perfected status have been or will promptly be taken as required by Section 6.13 to the extent required pursuant to the Collateral and Guarantee Requirement; or (ii) if the Person formed by or surviving any such merger or consolidation is not Parent or the Borrower (as applicable) (any such Person, the “**Successor Company**”), (A) the Successor Company shall be an entity organized or existing under the Laws of the United States or any state thereof or the District of Columbia, (B) the Successor Company

shall expressly assume all the obligations of Parent or the Borrower (as applicable) under this Agreement and the other Loan Documents to which Parent or the Borrower (as applicable) is a party pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent, (C) each Guarantor, unless it is the other party to such merger or consolidation, shall have confirmed that its Guaranty shall apply to the Successor Company's obligations under the Loan Documents, (D) each Guarantor, unless it is the other party to such merger or consolidation, shall have by a supplement to the Security Agreement and other applicable Collateral Documents confirmed that its obligations thereunder shall apply to the Successor Company's obligations under the Loan Documents, (E) if reasonably requested by the Administrative Agent, each mortgagor of a Mortgaged Property, unless it is the other party to such merger or consolidation, shall have by an amendment to or restatement of the applicable Mortgage (or other instrument reasonably satisfactory to the Administrative Agent) confirmed that its obligations thereunder shall apply to the Successor Company's obligations under the Loan Documents, and (F) the Borrower shall have delivered to the Administrative Agent an officer's certificate stating that such merger or consolidation and such supplement to this Agreement or any Collateral Document comply with this Agreement; provided, further, that if the foregoing are satisfied, the Successor Company will succeed to, and be substituted for, Parent or the Borrower (as applicable) under this Agreement;

(e) so long as no Event of Default has occurred and is continuing or would result therefrom (in the case of a merger involving a Loan Party), any Restricted Subsidiary (other than the Borrower) may merge or consolidate with any other Person in order to effect an Investment permitted pursuant to Section 7.02; provided that the continuing or surviving Person shall be a Restricted Subsidiary, which together with each of such surviving Person's Subsidiaries that are Restricted Subsidiaries, shall have complied with the requirements of Section 6.11 or 6.13 to the extent required pursuant to the Collateral and Guarantee Requirement;

(f) the Borrower and the Restricted Subsidiaries may consummate the Acquisition, related transactions contemplated by the Acquisition Agreement (and documents related thereto) and the Transactions; and

(g) so long as no Event of Default has occurred and is continuing or would result therefrom, a merger, dissolution, liquidation, consolidation or Disposition, the purpose of which is to effect a Disposition permitted pursuant to Section 7.05 (other than Section 7.05(e)) or a Restricted Payment permitted pursuant to Section 7.06 (other than Section 7.06(d)).

**SECTION 7.05 Dispositions.** Make any Disposition, except:

(a) Dispositions of obsolete, worn out, used or surplus property, whether now owned or hereafter acquired, in the ordinary course of business and Dispositions of property no longer used or useful in the conduct of the business of Parent or any of its Restricted Subsidiaries;

(b) Dispositions of inventory in the ordinary course of business or consistent with past practice, goods held for sale in the ordinary course of business and immaterial assets (including allowing any registrations or any applications for registration of any immaterial IP Rights to lapse or go abandoned in the ordinary course of business) and termination of leases and licenses in the ordinary course of business;

(c) Dispositions of 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 promptly applied to the purchase price of such replacement property;

(d) Dispositions of property (including Equity Interests in or Indebtedness of Foreign Subsidiaries) to Parent or any Restricted Subsidiary; provided that if the transferor of such property is a Loan Party, (i) the transferee thereof must be a Loan Party or (ii) if such transaction constitutes an Investment, such transaction is permitted under Section 7.02 (other than Section 7.02(e) or (h));

(e) to the extent constituting Dispositions, transactions permitted by (i) Section 7.01 (other than Section 7.01(i) and (l)(ii)), (ii) Section 7.02 (other than 7.02(e) or (h)), (iii) Section 7.04 (other than 7.04(g)) and (iv) Section 7.06 (other than 7.06(d));

(f) Dispositions to consummate the Transactions;

(g) Dispositions of cash and Cash Equivalents;

(h) leases, subleases, licenses or sublicenses (including licenses and sublicenses of software or other IP Rights) and terminations thereof, in each case in the ordinary course of business, and which do not materially interfere with the business of Parent and its Restricted Subsidiaries (taken as a whole) and (ii) Dispositions of IP Rights (including inbound licenses) that are no longer material to the business of Parent and its Restricted Subsidiaries;

(i) transfers of property subject to Casualty Events;

(j) Dispositions of property; provided that (i) at the time of such Disposition (other than any such Disposition made pursuant to a legally binding commitment entered into at a time when no Default has occurred and is continuing), no Event of Default shall have occurred and be continuing or would result from such Disposition, (ii) with respect to Dispositions pursuant to this Section 7.05(j) for an aggregate purchase price for all such Dispositions in excess of \$9,375,000 in any fiscal year, Parent or any of its Restricted Subsidiaries shall receive not less than 75% of such consideration in the form of cash or Cash Equivalents (in each case, free and clear of all Liens at the time received, other than non-consensual Liens permitted by Section 7.01 and Liens permitted by Sections 7.01(a), (f), (k), (l), (m), (n), (p), (q), (r)(i), (r)(ii), (s), (dd) (only to the extent the Obligations are secured by such cash and Cash Equivalents), (jj) and (kk) (only to the extent the Obligations are secured by such cash and Cash Equivalents)); provided, however, that for the purposes of this clause (ii), the following shall be deemed to be cash: (A) any liabilities (as shown on Parent's most recent balance sheet provided hereunder or in the footnotes thereto) of Parent or such Restricted Subsidiary, other than liabilities that are by their terms subordinated to the payment in cash of the Obligations, that are assumed by the transferee with respect to the applicable Disposition and for which Parent and all of its Restricted Subsidiaries shall have been validly released by all applicable creditors in writing, (B) any securities received by Parent or the applicable Restricted Subsidiary from such transferee that are converted by Parent or such Restricted Subsidiary into cash or Cash Equivalents (to the extent of the cash or Cash Equivalents received) within 180 days following the closing of the applicable Disposition, and (C) aggregate non-cash consideration received by Parent or the applicable Restricted Subsidiary having an aggregate fair market value (determined as of the closing of the applicable Disposition for which such non-cash consideration is received) not to exceed the greater of \$12,500,000 and 18.75% of LTM EBITDA at any time and (iii) Parent or the applicable Restricted Subsidiary complies with the applicable provision of Section 2.05(b);

(k) Dispositions of non-core assets acquired in connection with Permitted Acquisitions or other Investments; provided that (i) the aggregate amount of such sales shall not exceed 25% of the fair market value of the acquired entity or business and (ii) each such sale is in an arm's-length transaction and Parent or the respective Restricted Subsidiary receives at least fair market value in exchange therefor;

(l) Dispositions or discounts without recourse of accounts receivable in connection with the compromise or collection thereof in the ordinary course of business;

(m) Dispositions of property pursuant to sale-leaseback transactions; provided that to the extent the aggregate Net Proceeds from all such Dispositions since the Closing Date exceeds \$12,500,000, such excess shall be reinvested in accordance with the definition of "Net Proceeds" or otherwise shall be applied to prepay Loans in accordance with Section 2.05(b)(ii);

(n) any swap of assets in exchange for services or other assets in the ordinary course of business of comparable or greater value or usefulness to the business of Parent and its Subsidiaries as a whole, as determined in good faith by the management of Parent;

(o) any sale of Equity Interests in, or Indebtedness or other securities of, an Unrestricted Subsidiary;

(p) 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;

(q) the unwinding or settlement of any Swap Contract;

(r) the lapse or abandonment in the ordinary course of business of any registrations or applications for registration of any immaterial IP Rights;

(s) Dispositions constituting any part of a reorganization and other activities related to tax planning or tax reorganization that do not impair the security interests granted to the Administrative Agent for the benefit of the Secured Parties and are otherwise not materially adverse to the Lenders and after giving effect to such Investment, reorganization or other activity, Holdings, Borrower and the Restricted Subsidiaries comply with Section 6.11;

(t) [intentionally omitted];

(u) Dispositions of non-Collateral assets in an aggregate amount not to exceed \$12,500,000; and

(v) Dispositions pursuant to agreements, instruments or arrangements in existence on the Closing Date and set forth on Schedule 7.05(v);

provided that any Disposition of any property pursuant to this Section 7.05 (except pursuant to Sections 7.05(a), (b), (d), (e), (f), (h), (i), (l), (p), (q), (r) and (t), and except for Dispositions from a Loan Party to any other Loan Party) shall be for no less than the fair market value of such property at the time of such Disposition as determined by Parent in good faith. Subject to the terms, conditions and provisions of the Intercreditor Agreements, to the extent any Collateral is Disposed of as permitted by this Section 7.05 to any Person other than a Loan Party, such Collateral shall be sold free and clear of the Liens created by the Loan Documents, and the Administrative Agent shall be authorized to take any actions deemed appropriate in order to effect the foregoing.

**SECTION 7.06 Restricted Payments.** Declare or make, directly or indirectly, any Restricted Payment, except:

(a) each Restricted Subsidiary may make Restricted Payments to Parent, and other Restricted Subsidiaries of Parent (and, in the case of a Restricted Payment by a non-wholly owned Restricted Subsidiary, to Parent and any other Restricted Subsidiary and to each other owner of Equity Interests of such Restricted Subsidiary based on their relative ownership interests of the relevant class of Equity Interests);

(b) Parent and each Restricted Subsidiary may declare and make dividend payments or other Restricted Payments payable solely in the Equity Interests of such Person (and, in the case of such a Restricted Payment by a non-wholly owned Restricted Subsidiary, to Parent and any other Restricted Subsidiary and to each other owner of Equity Interests of such Restricted Subsidiary based on their relative ownership interests of the relevant class of Equity Interests);

(c) Restricted Payments made (i) on the Closing Date to consummate the Transactions, (ii) in respect of working capital adjustments or purchase price adjustments pursuant to the Acquisition Agreement, any Permitted Acquisition or other permitted Investments and (iii) in order to satisfy indemnity and other similar obligations under the Acquisition Agreement;

(d) to the extent constituting Restricted Payments, Parent (or any direct or indirect parent thereof) and its Restricted Subsidiaries may enter into and consummate transactions permitted by any provision of Section 7.02 (other than 7.02(e) and 7.02(m)), Section 7.04 (other than 7.04(g)), 7.05 (other than 7.05(e)(iv) and 7.05(g)) or Section 7.08 (other than 7.08(f), 7.08(g), 7.08(h), and 7.08(m));

(e) repurchases of Equity Interests in Parent or any Restricted Subsidiary deemed to occur upon exercise of stock options or warrants if such Equity Interests represent a portion of the exercise price of such options or warrants;

(f) Parent and each Restricted Subsidiary may (i) pay (or make Restricted Payments to allow any direct or indirect parent thereof to pay) for the repurchase, retirement or other acquisition or retirement for value of Equity Interests of such Restricted Subsidiary (or of Parent or any other direct or indirect parent thereof) held by any future, present or former employee, officer, director, manager or consultant (or any spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees of any of the foregoing) of a Restricted Subsidiary or Parent (or any direct or indirect parent thereof) or (ii) make Restricted Payments in the form of distributions to allow Parent or any direct or indirect parent of Parent to pay principal or interest on promissory notes that were issued to any future, present or former employee, officer, director, manager or consultant (or any spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees of any of the foregoing) of a Restricted Subsidiary (or Parent or any other direct or indirect parent thereof) in lieu of cash payments for the repurchase, retirement or other acquisition or retirement for value of such Equity Interests held by such Persons, in each case, upon the death, disability, retirement or termination of employment of any such Person or pursuant to any employee, manager or director equity plan, employee, manager or director stock option plan or any other employee, manager or director benefit plan or any agreement (including any stock subscription or shareholder agreement) with any employee, director, officer or consultant of such Restricted Subsidiary (or Parent or any other direct or indirect parent thereof) or any of its Restricted Subsidiaries; provided that the aggregate amount of Restricted Payments made pursuant to this Section 7.06(f) together with the aggregate amount of loans and advances to a parent of Parent made pursuant to Section 7.02(m) in lieu of Restricted Payments permitted by this Section 7.06(f) shall not exceed \$6,000,000 in any calendar year (with unused amounts in any calendar year being carried over to succeeding calendar years subject to a maximum (without giving effect to the following proviso) of \$12,000,000 in any calendar year); provided, further, that such amount in any calendar year may further be increased by an amount not to exceed:

(A) amounts used to increase the Cumulative Credit pursuant to clauses (b) and (c) of the definition of “Cumulative Credit”;

(B) Excluded Contributions;

(C) the Net Proceeds of key man life insurance policies received by Parent or its Restricted Subsidiaries less the amount of Restricted Payments previously made with the cash proceeds of such key man life insurance policies;

provided, further, that cancellation of Indebtedness owing to Parent from members of management of Parent, any of Parent’s direct or indirect parent companies or any of Parent’s Restricted Subsidiaries in connection with a repurchase of Equity Interests of Parent or any of Parent’s direct or indirect parent companies will not be deemed to constitute a Restricted Payment for purposes of this covenant or any other provision of this Agreement;

(g) so long as no Event of Default has occurred and is continuing or would result therefrom (other than (i) in the case of any Restricted Payment made using the portion of the Cumulative Credit described in clause (a) of the definition thereof, in which case no Event of Default pursuant to Section 8.01(a) or (f) shall have occurred and be continuing or would result therefrom, or (ii) in the case of any Restricted Payment made using the portion of the Cumulative Credit described in clause (c)(i) of the definition thereof), Parent may make Restricted Payments in an aggregate amount not to exceed (x) \$25,000,000 *plus* (y) the Cumulative Credit at such time; provided that with respect to any Restricted Payment made pursuant to clause (y) above, solely to the extent such payments are made in reliance on clause (b) of the definition of “Cumulative Credit”, the Consolidated Total Net Leverage Ratio (calculated on a Pro Forma Basis in accordance with Section 1.09) is less than or equal to 5.00 to 1.00;

(h) Parent may make Restricted Payments to any direct or indirect parent of Parent:

(i) to pay its operating costs and expenses incurred in the ordinary course of business and other corporate overhead costs and expenses (including administrative, legal, accounting and similar expenses provided by third parties), incurred in the ordinary course of business and attributable to the ownership or operations of Parent and its Restricted Subsidiaries, Transaction Expenses and any fees and expenses of and indemnification claims made by directors or officers of such parent attributable to the ownership or operations of Parent and its Restricted Subsidiaries;

(ii) the proceeds of which shall be used to pay (or make Restricted Payments to allow any direct or indirect parent thereof to pay) franchise or similar Taxes, other fees and expenses required to maintain its (or any of its direct or indirect parents’) corporate or limited liability company existence;

(iii) (A) for any taxable period in which Parent and/or any of its Subsidiaries is a member of a consolidated, combined or similar income tax group of which Parent is the common parent (a “**Tax Group**”), to pay the portion of any federal, foreign, state and/or local income taxes of such Tax Group that are attributable to the taxable income of Parent and/or its Subsidiaries; provided that, for each taxable period, the amount of such payments made in respect of such taxable period in the aggregate shall not exceed the amount that Parent and its Subsidiaries would have been required to pay as a stand-alone consolidated, combined or similar income tax group; provided, further, that the permitted payment pursuant to this clause (iii) with respect to any Taxes of any Unrestricted Subsidiary for any taxable period shall be limited to the amount actually paid with respect to such period by such Unrestricted Subsidiary to Parent or its

Restricted Subsidiaries for the purposes of paying such consolidated, combined or similar income Taxes; and (B) for any fiscal quarter in which Parent is treated as a partnership or disregarded entity owned by a partnership for federal income tax purposes, an amount for the immediately preceding fiscal quarter equal to the product of (x) the net taxable income of Parent, if positive, for such immediately preceding fiscal quarter, determined by disregarding any tax basis adjustments under Section 743(b) of the Code and (y) the sum of the maximum federal, state and local income tax rates (including pursuant to Section 1411 of the Code), reduced by any deduction or credit allowable for state and local taxes, and reflecting any reduced rate applicable to any special class of income that is in effect for such immediately preceding fiscal quarter for taxable corporations or individuals (whichever is higher) in any jurisdiction in the United States (any amount permitted to be paid under this Section 7.06(h)(iii), a “**Tax Distribution**”);

(iv) to finance any Investment that would be permitted to be made pursuant to Sections 7.02 and 7.08 if such parent were subject to such Sections; provided that (A) such Restricted Payment shall be made substantially concurrently with the closing of such Investment, (B) such parent shall, immediately following the closing thereof, cause (1) all property acquired (whether assets or Equity Interests) to be contributed to Parent or the Restricted Subsidiaries or (2) the merger (to the extent permitted in Section 7.04) of the Person formed or acquired into Parent or its Restricted Subsidiaries in order to consummate such Investment, in each case, in accordance with the requirements of Section 6.11 and (C) such contribution shall constitute an Investment by Parent or the applicable Restricted Subsidiaries, as the case may be, at the date of such contribution or merger, as applicable, in an amount equal to the amount of such Restricted Payment;

(v) the proceeds of which (A) shall be used to pay customary salary, bonus and other benefits payable to officers and employees of any direct or indirect parent company of Parent to the extent such salaries, bonuses and other benefits are attributable to the ownership or operation of Parent and the Restricted Subsidiaries or (B) shall be used to make payments permitted under Sections 7.08(e), (i), (j), (k), (l), (m) and (p) (but only to the extent such payments have not been and are not expected to be made by Parent or a Restricted Subsidiary); and

(vi) the proceeds of which shall be used to make Restricted Payments to allow any direct or indirect parent of Parent to pay fees and expenses (other than to Affiliates) related to any unsuccessful equity or debt offering by Parent (or any direct or indirect parent thereof) that is directly attributable to the operations of Parent and its Restricted Subsidiaries;

(i) payments made or expected to be made by Parent, Borrower or any of the Restricted Subsidiaries (or Restricted Payments to allow any direct or indirect parent thereof to make payments) in respect of withholding or similar Taxes payable by or with respect to any future, present or former employee, director, manager or consultant (or any spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees of any of the foregoing) and any repurchases of Equity Interests in consideration of such payments including deemed repurchases, in each case, in connection with the exercise of stock options;

(j) (i) any Restricted Payment by Parent or any other direct or indirect parent of Parent to pay listing fees and other costs and expenses attributable to being a publicly traded company which are reasonable and customary and (ii) additional Restricted Payments in an aggregate amount per annum not to exceed \$10,750,000;

(k) Parent or any of the Restricted Subsidiaries may pay (or to make Restricted Payments to allow any direct or indirect parent thereof to pay) cash in lieu of fractional Equity Interests in connection with (x) any dividend, split or combination thereof or (y) any Permitted Acquisition;

(l) Restricted Payments in the amount of any Excluded Contribution;

(m) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Equity Interests (“**Treasury Capital Stock**”) or Junior Financing made by exchange (including any such exchange pursuant to the exercise of a conversion right or privilege in connection with which cash is paid in lieu of the issuance of fractional shares) for, or out of the proceeds of the substantially concurrent sale of, Equity Interests of Parent (other than Disqualified Equity Interests) (“**Refunding Capital Stock**”) or a substantially concurrent contribution to the equity (other than through the issuance of Disqualified Equity Interests or through an Excluded Contribution) of Parent; *provided, however*, that to the extent so applied, the Net Proceeds, or fair market value of property or assets or of marketable securities, from such sale of Equity Interests or such contribution will be excluded from clause (c) of the Cumulative Amount;

(n) any Restricted Payments made on the date of consummation of the GEE Acquisition in connection with the Amendment Transactions to fund the redemption of the EMC Parent Preferred Units;

(o) the payment of any Restricted Payment within 60 days after the date of declaration thereof, if at the date of declaration such Restricted Payment would have complied with the provisions of this Agreement; and

(p) so long as no Event of Default has occurred and is continuing or would result therefrom, Parent or any Restricted Subsidiary may make Restricted Payments in an unlimited amount so long as the Consolidated Total Net Leverage Ratio (calculated on a Pro Forma Basis) as of the end of the most recent Test Period is no greater than 3.00:1.00.

#### **SECTION 7.07 [Reserved].**

**SECTION 7.08 Transactions with Affiliates.** Enter into any transaction of any kind with any Affiliate of Parent, whether or not in the ordinary course of business, in each case involving aggregate payments or consideration in excess of \$3,750,000, other than:

(a) transactions among Parent and its Restricted Subsidiaries or any entity that becomes a Restricted Subsidiary as a result of such transaction;

(b) on terms substantially as favorable to Parent or such Restricted Subsidiary as would be obtainable by Parent or such Restricted Subsidiary at the time in a comparable arm’s-length transaction with a Person other than an Affiliate;

(c) the Transactions and the payment of fees and expenses (including Transaction Expenses) as part of or in connection with the Transactions;

(d) the issuance of Equity Interests to any officer, director, employee or consultant of Parent or any of its Restricted Subsidiaries in connection with the Transactions;

(e) [Reserved];

(f) Restricted Payments permitted under Section 7.06;

(g) loans and other Investments among Parent and its Subsidiaries and joint ventures (to the extent any such Subsidiary that is not a Restricted Subsidiary or any such joint venture is only an Affiliate as a result of Investments by Parent and/or its Restricted Subsidiaries in such Subsidiary or joint venture) to the extent otherwise permitted under Section 7.02;

(h) transactions by Parent and its Restricted Subsidiaries permitted under an express provision (including any exceptions thereto) of this Article 7;

(i) employment and severance arrangements between Parent and its Restricted Subsidiaries and their respective officers and employees in the ordinary course of business and transactions pursuant to stock option plans and employee benefit plans and arrangements in the ordinary course of business;

(j) the payment of customary fees and reasonable out of pocket costs to, and indemnities provided on behalf of, directors, officers, employees and consultants of Parent and its Restricted Subsidiaries (or any direct or indirect parent of Parent) in the ordinary course of business to the extent attributable to the ownership or operation of Parent and its Restricted Subsidiaries;

(k) transactions pursuant to agreements, instruments or arrangements (i) in existence on the Closing Date and set forth on Schedule 7.08(k) or (ii) in existence on the Amendment No. 1 Effective Date and disclosed by Parent in any public filing made under the Securities Act, or any amendment thereto to the extent such an amendment is not adverse to the Lenders in any material respect;

(l) [intentionally omitted];

(m) payments by Parent or any of its Subsidiaries pursuant to any tax sharing agreements with any direct or indirect parent of Parent to the extent attributable to the ownership or operation of Parent and the Subsidiaries, but only to the extent permitted by Section 7.06(h)(iii);

(n) the issuance or transfer of Equity Interests (other than Disqualified Equity Interests) of Parent, including to any former, current or future director, manager, officer, employee or consultant (or any spouses, former spouses, successors, executors, administrators, heirs, legatees, distributees or Affiliate of any of the foregoing) of Parent, any of its Subsidiaries or any direct or indirect parent thereof;

(o) transactions with customers, clients, joint venture partners, suppliers or purchasers or sellers of goods or services, in each case in the ordinary course of business and otherwise in compliance with the terms of this Agreement that are fair to Parent and the Restricted Subsidiaries, in the reasonable determination of the board of directors or the senior management of Parent, or are on terms at least as favorable (as reasonably determined by Parent) as might reasonably have been obtained at such time from an unaffiliated party;

(p) (i) any payments required to be made pursuant to the Acquisition Agreement and the GEE Acquisition and (ii) the Transactions and the Amendment Transactions;

(q) the payment of reasonable out-of-pocket costs and expenses and indemnities pursuant to the stockholders agreement or the registration and participation rights agreement entered into on the Closing Date in connection therewith;

(r) transactions in which Parent or any of the Restricted Subsidiaries, as the case may be, deliver to the Administrative Agent a letter from an Independent Financial Advisor stating that such transaction is fair to Parent or such Restricted Subsidiary from a financial point of view or meets the requirements of Section 7.08(b); and

(s) payments to or from, and transactions with, joint ventures (to the extent any such joint venture is only an Affiliate as a result of Investments by Parent and the Restricted Subsidiaries in such joint venture) in the ordinary course of business to the extent otherwise permitted under Section 7.02.

**SECTION 7.09 Burdensome Agreements.** Enter into or permit to exist any Contractual Obligation (other than this Agreement or any other Loan Document) that limits the ability of:

(a) any Restricted Subsidiary that is not a Guarantor to make Restricted Payments to the Borrower or Parent;  
or

(b) any Loan Party to create, incur, assume or suffer to exist Liens on property of such Person for the benefit of the Lenders with respect to the Facilities and the Obligations;

provided that the foregoing Sections 7.09(a) and (b) shall not apply to Contractual Obligations which:

(i) (x) exist on the Closing Date and (to the extent not otherwise permitted by this Section 7.09) are listed 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 modification, replacement, renewal, extension or refinancing of such Indebtedness so long as such modification, replacement, renewal, extension or refinancing (taken as a whole) does not materially expand the scope of such Contractual Obligation (as reasonably determined by Parent);

(ii) are binding on a Restricted Subsidiary at the time such Restricted Subsidiary first becomes a Restricted Subsidiary, so long as such Contractual Obligations were not entered into in contemplation of such Person becoming a Restricted Subsidiary; provided, further, that this clause (ii) shall not apply to Contractual Obligations that are binding on a Person that becomes a Restricted Subsidiary pursuant to Section 6.14;

(iii) represent Indebtedness of a Restricted Subsidiary which is not a Loan Party which is permitted by Section 7.03 and which does not apply to any Loan Party;

(iv) are customary restrictions (as reasonably determined by Parent) that arise in connection with (x) any Lien permitted by Sections 7.01(a), (b), (f), (i), (j)(i), (k), (l), (p), (q), (r)(i), (r)(ii), (s), (u), (v), (w), (z), (aa), (dd), (ee), (gg), (ii), (jj), and (kk) and relate to the property subject to such Lien or (y) arise in connection with any Disposition permitted by Section 7.04 or 7.05 and relate solely to the assets or Person subject to such Disposition;

(v) are customary provisions in joint venture agreements and other similar agreements applicable to joint ventures permitted under Section 7.02 and applicable solely to such joint venture and its equity;

(vi) are negative pledges and restrictions on Liens in favor of any holder of Indebtedness permitted under Section 7.03 but solely to the extent any negative pledge relates to (i) the property financed by such Indebtedness and the proceeds, accessions and products thereof

or (ii) the property secured by such Indebtedness and the proceeds, accessions and products thereof so long as the agreements governing such Indebtedness permit the Liens securing the Obligations;

(vii) are customary restrictions on leases, subleases, licenses or asset sale agreements otherwise permitted hereby so long as such restrictions relate to the property interest, rights or the assets subject thereto;

(viii) comprise restrictions imposed by any agreement relating to secured Indebtedness permitted pursuant to Sections 7.03(b), (e), (g), (n)(i), (u), (w), (y) and (bb) and to the extent that such restrictions apply only to the property or assets securing such Indebtedness or, in the case of Section 7.03(g) or (u), to the Restricted Subsidiaries incurring or guaranteeing such Indebtedness;

(ix) are customary provisions restricting subletting, transfer or assignment of any lease governing a leasehold interest of Parent or any Restricted Subsidiary;

(x) are customary provisions restricting assignment or transfer of any agreement entered into in the ordinary course of business;

(xi) are restrictions on cash or other deposits imposed by customers under contracts entered into in the ordinary course of business;

(xii) arise in connection with cash or other deposits permitted under Sections 7.01 and 7.02 and limited to such cash or deposit;

(xiii) comprise restrictions imposed by any agreement governing Indebtedness entered into on or after the Closing Date and permitted under Section 7.03 that are, taken as a whole, in the good faith judgment of Parent, either (a) no more restrictive than the restrictions contained in this Agreement or (b) no more restrictive with respect to the Borrower or Parent or any Restricted Subsidiary than customary market terms for Indebtedness of such type, so long as Parent shall have determined in good faith that such restrictions pursuant to this clause (b) will not affect its obligation or ability to make any payments required hereunder;

(xiv) are restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business;

(xv) are restrictions regarding licensing or sublicensing by Parent and its Restricted Subsidiaries of IP Rights (including customary restrictions on assignment contained in license or sublicense agreements) entered into in the ordinary course of business;

(xvi) are restrictions contained in the First Lien Loan Documents and documents otherwise governing Indebtedness permitted pursuant to Section 7.03(w); and

(xvii) are restrictions on cash earnest money deposits in favor of sellers in connection with acquisitions not prohibited hereunder.

**SECTION 7.10 [Reserved].**

**SECTION 7.11 Consolidated Total Net Leverage Ratio.** Permit the Consolidated Total Net Leverage Ratio as of the last day of any Test Period ending on any date set forth below to be greater than the ratio set forth below.

<b>Last date of Test Period</b>	<b>Consolidated Total Net Leverage Ratio</b>
Last day of the first full fiscal quarter ending after the Amendment No. 1 Effective Date and the last day of each fiscal quarter thereafter through December 31, 2017	5.75:1.00
March 31, 2018	5.50:1.00
June 30, 2018	5.50:1.00
September 30, 2018	5.50:1.00
December 31, 2018	5.50:1.00
March 31, 2019	5.25:1.00
June 30, 2019	5.25:1.00
September 30, 2019	5.25:1.00
December 31, 2019	5.25:1.00
March 31, 2020 and the last day of each fiscal quarter of Parent thereafter	5.00:1.00

**SECTION 7.12 [Reserved].**

**SECTION 7.13 Prepayments, Etc. of Subordinated Indebtedness.**

(a) Prepay, redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof in any manner (it being understood that payments of regularly scheduled principal, interest and mandatory prepayments and “AHYDO” payments and, subject to no Event of Default arising under Section 8.01(a) or (f) then existing or resulting therefrom, in connection with the amendment of any Junior Financing, the payment of related fees (other than in connection with any amendment that reduces or forgives the commitments, outstanding principal amount or effective yield of such Junior Financing) shall be permitted) any Indebtedness for borrowed money of a Loan Party (other than intercompany indebtedness) that is (x) subordinated in right of payment to the Obligations expressly by its terms or (y) is secured on a junior lien basis to the Liens securing the Obligations (including any Permitted Junior Priority Refinancing Debt) (collectively, “**Junior Financing**”), except (i) the refinancing thereof with any Indebtedness (to the extent such Indebtedness constitutes a Permitted Refinancing and, if such Indebtedness was originally incurred under Section 7.03(g), is permitted pursuant to Section 7.03(g)), to the extent not required to prepay any Loans pursuant to Section 2.05(b), (ii) the conversion or exchange of any Junior Financing to Equity Interests (other than Disqualified Equity Interests) of Parent or any of its direct or indirect parents, (iii) the prepayment of Indebtedness of Parent or any Restricted Subsidiary to Parent or any Restricted Subsidiary, subject to the subordination provisions applicable to any such Indebtedness, (iv) [reserved], (v) repayments of the seller financing permitted by Section 7.03(v), (vi) so long as no Event of Default has occurred and is continuing or would result therefrom (other than any repayment, redemption, purchase, defeasance or other payment made using (i) the portion of the Cumulative Credit described in clause (a) of the definition thereof, in which case no Event of Default pursuant to Section 8.01(a) or (f) shall have occurred and be continuing or would result therefrom, or (ii) the portion of the Cumulative Credit described in clause (c)(i) if the definition thereof), repayments, redemptions, purchases, defeasances and other payments in respect of Junior Financings prior to their scheduled maturity in an aggregate amount not to exceed, \$12,500,000 *plus*, the Cumulative Credit at such time; provided that solely to the extent such payments are made in reliance on clause (b) of the

definition of “Cumulative Credit”, the Consolidated Total Net Leverage Ratio (calculated on a Pro Forma Basis in accordance with Section 1.09) is less than or equal to 5.00 to 1.00 and (vii) the redemption, repurchase or retirement of Junior Financing if, at the date of the applicable redemption notice, such payment would have complied with the provisions hereof as if it were and is deemed at such time to be made at the time of such notice.

(b) Amend, modify or change any term or condition of any Junior Financing Documentation in respect of any Specified Junior Financing Obligation in violation of the definition of “Permitted Refinancing” or any applicable subordination or intercreditor agreement.

Notwithstanding anything to the contrary in any Loan Document, the Borrower, Parent and any Restricted Subsidiary may make regularly scheduled payments of interest and fees on any Junior Financing, and may make any payments required by the terms of such Indebtedness in order to avoid the application of Section 163(e)(5) of the Code to such Indebtedness.

**SECTION 7.14 Permitted JV Holdings Activities.** With respect to JV Holdings, engage in any operating or business activities; provided that the following and any activities incidental thereto shall be permitted in any event: (i) its ownership of its rights in respect of the Equity Interests of WMS and activities incidental thereto, including payment of dividends and other amounts in respect of its Equity Interests permitted under Section 7.06, (ii) the maintenance of its legal existence (including the ability to incur fees, costs and expenses relating to such maintenance), (iii) the performance of its obligations with respect to the Loan Documents, the First Lien Loan Documents and any other documents governing Indebtedness permitted to be incurred by Parent, the Borrower or a Restricted Subsidiary pursuant to Section 7.03, (iv) Guaranteed Obligations in respect of Indebtedness of Parent, the Borrower and the Restricted Subsidiaries permitted under Section 7.03, including any Permitted Refinancing thereof, (v) holding any cash or property (but not operating any property) and (vi) any activities incidental or reasonably related to the foregoing. JV Holdings shall not incur any Liens on its rights in respect of the Equity Interests of the WMS, other than non-consensual Liens and those for the benefit of the First Lien Secured Obligations and the Second Lien Secured Obligations (subject at all times to the Closing Date Intercreditor Agreement) and JV Holdings shall not own any Equity Interests other than those of WMS.

## **ARTICLE 8**

### **EVENTS OF DEFAULT AND REMEDIES**

**SECTION 8.01 Events of Default.** Any of the following from and after the Closing Date shall constitute an event of default (an “**Event of Default**”):

(a) *Non-Payment.* Any Loan Party fails to pay (i) when and as required to be paid herein, any amount of principal of any Loan, or (ii) within five Business Days after the same becomes due, any interest on any Loan, any fees or other amounts payable hereunder or with respect to any other Loan Document; or

(b) *Specific Covenants.* The Borrower, Parent or any Restricted Subsidiary fails to perform or observe any term, covenant or agreement contained in any of Section 6.03(a) or 6.05(a) (solely with respect to the Borrower) or Article 7; provided, that the covenant in Section 7.11 is subject to cure pursuant to Section 8.04; or

(c) *Other Defaults.* Parent, the Borrower or any Restricted Subsidiary fails to perform or observe any other covenant or agreement (not specified in Section 8.01(a), (b) or (d))

contained in any Loan Document on its part to be performed or observed and such failure continues for 30 days after receipt by the Borrower of written notice thereof from the Administrative Agent; or

(d) *Representations and Warranties.* Any representation, warranty, certification or statement of fact made or deemed made by any Loan Party herein, in any other Loan Document, or in any document required to be delivered in connection herewith or therewith shall be incorrect in any material respect (or, in the case of any representation and warranty qualified by materiality, in all respects) when made or deemed made, which in the case of such representations and warranties that are capable of being cured, shall not be cured within a period of thirty (30) days from receipt by the Borrower of written notice thereof from the Administrative Agent; or

(e) *Cross-Default.* Any Loan Party or any Restricted Subsidiary (A) fails to make any payment beyond the applicable grace period, if any, whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise, in respect of any Indebtedness (other than Indebtedness hereunder, but including Indebtedness outstanding under the First Lien Loan Documents) having an aggregate outstanding principal amount of not less than the Threshold Amount, or (B) fails to observe or perform any other agreement or condition relating to any such Indebtedness, or any other event occurs (other than, with respect to Indebtedness consisting of Swap Contracts, termination events or equivalent events pursuant to the terms of such Swap Contracts and not as a result of any default thereunder by any Loan Party), 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 or beneficiary or beneficiaries) to cause (after delivery of any notice if required and after giving effect to any waiver, amendment, cure or grace period), with the giving of notice if required, such Indebtedness 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 (B) shall not apply to (i) secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, if such sale or transfer is permitted hereunder, (ii) any Indebtedness if (x) the sole remedy of the holder thereof in the event of the non-payment of such Indebtedness or the non-payment or non-performance of obligations related thereto or (y) the sole rights of the holder(s) thereof is to elect, in each case, to convert such Indebtedness into Qualified Equity Interests and cash in lieu of fractional shares and (iii) in the case of Indebtedness which the holder thereof may elect to convert into Qualified Equity Interests, such Indebtedness from and after the date, if any, on which such conversion has been effected; provided, further, that such failure is unremedied or is not waived by the holders of such Indebtedness prior to any termination of the Commitments or acceleration of the Loans pursuant to Section 8.02; provided, further, that with respect to any of the defaults described in clauses (A) and (B) above in respect of Indebtedness outstanding under the First Lien Loan Documents, such default shall only constitute an Event of Default under this Agreement if (x) Indebtedness under the First Lien Loan Documents has been accelerated in accordance with its terms, or (y) such default arises from the failure to pay at final maturity (after giving effect to any applicable grace periods and any extensions thereof) the stated principal amount of Indebtedness under the First Lien Loan Documents; or

(f) *Insolvency Proceedings, Etc.* Other than with respect to any dissolutions otherwise permitted hereunder, any Loan Party or any Material Subsidiary institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes a general assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver 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 substantially all of its property is instituted without the consent of such Person and continues undismissed or unstayed for 60 consecutive calendar days, or an order for relief is entered in any such proceeding; or

(g) [Reserved]; or

(h) *Judgments*. There is entered against any Loan Party or any Restricted Subsidiary a final judgment or order for the payment of money in an aggregate amount exceeding the Threshold Amount (to the extent not covered by either (i) independent third-party insurance as to which the insurer does not deny coverage or (ii) another creditworthy (as reasonably determined by the Administrative Agent) indemnitor); and such judgment or order shall not have been satisfied, vacated, discharged or stayed or bonded pending an appeal for a period of 60 consecutive days; or

(i) *Invalidity of Loan Documents*. Any material provision of the Loan Documents, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder (including as a result of a transaction permitted under Section 7.04 or 7.05) or as a result of acts or omissions by the Administrative Agent or any Lender or the satisfaction in full of all the Obligations (other than contingent obligations as to which no claim has been asserted), ceases to be in full force and effect; or any Loan Party contests in writing the validity or enforceability of any provision of any Loan Document or the validity or priority of a Lien as required by the Collateral Documents on a material portion of the Collateral; or any Loan Party denies in writing that it has any or further liability or obligation under any Loan Document (other than as a result of repayment in full of the Obligations (other than in accordance with its terms) and termination of the Aggregate Commitments), or purports in writing to revoke or rescind any Loan Document (other than in accordance with its terms); or

(j) *Change of Control*. There occurs any Change of Control; or

(k) *Collateral Documents*. Any Collateral Document after delivery thereof pursuant to Section 4.01, 6.11 or 6.13 shall for any reason (other than pursuant to the terms thereof including as a result of a transaction not prohibited under this Agreement) cease to create a valid and perfected Lien, with the priority required by the Collateral Documents on and security interest in any material portion of the Collateral purported to be covered thereby, subject to Liens permitted under Section 7.01 or any Loan Party contests in writing the validity or priority of a Lien, (i) except to the extent that any such perfection or priority is not required pursuant to the Collateral and Guarantee Requirement or results from the failure of the Administrative Agent (or the Designated First Lien Representative, in accordance with the terms of the Closing Date Intercreditor Agreement) to maintain possession of certificates actually delivered to it representing securities or negotiable instruments pledged under the Collateral Documents which does not arise from a breach by a Loan Party of its obligations under the Loan Documents or take other required actions required to be taken by the Administrative Agent under the Loan Documents and (ii) except as to Collateral consisting of Real Property to the extent that such losses are covered by a lender's title insurance policy and such insurer has not denied coverage; or

(l) *ERISA*. (i) An ERISA Event occurs which has resulted or would reasonably be expected to result in a Material Adverse Effect, (ii) a Loan Party, any Restricted Subsidiary 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 and a Material Adverse Effect would reasonably be expected to result or (iii) a termination, withdrawal or noncompliance with applicable Law or plan terms or other event similar to an ERISA Event occurs in with respect to a Foreign Plan that would reasonably be expected to result in a Material Adverse Effect, either individually or in the aggregate with each other such event.

## **SECTION 8.02 Remedies Upon Event of Default**

If any Event of Default occurs and is continuing, subject to the terms, conditions and provisions of the Intercreditor Agreements, the Administrative Agent may, with the consent of the Required Lenders, and, at the request of the Required Lenders shall, take any or all of the following actions:

(i) declare the commitment of each Lender to make Loans to be terminated, whereupon such commitments and obligation shall be terminated;

(ii) 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 (to the extent permitted by applicable law); and

(iii) exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents or applicable Law;

provided 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 or any Debtor Relief Laws, the obligation of each Lender to make Loans shall automatically terminate and the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, in each case without further act of the Administrative Agent or any Lender.

Notwithstanding anything to the contrary contained herein, neither the Administrative Agent nor any Lender shall take any action pursuant hereto that would constitute or result in any assignment of the FCC Authorizations or transfer of control of the Borrower or any Subsidiaries if such assignment or transfer of control would require, under then-existing Law (including the Communications Act), the prior approval of the FCC, without first obtaining such approval of the FCC (to the extent required to do so). Subject to the terms and conditions herein, each of Parent and the Borrower agrees, after the occurrence and during the continuance of any Event of Default, to cooperate fully in obtaining any approval of the FCC and any other Governmental Authority that is then required under the Communications Act.

**SECTION 8.03 Application of Funds.** Subject to the terms of the Intercreditor Agreements, after the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable), any amounts received on account of the Obligations shall be applied by the Administrative Agent in the following order (to the fullest extent permitted by mandatory provisions of applicable Law):

*First*, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal and interest, but including Attorney Costs payable under Section 10.04 and amounts payable under Article 3) payable to each Agent in its capacity as such hereunder;

*Second*, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders hereunder (including Attorney Costs payable under Section 10.04 and amounts payable under Article 3), ratably among them in proportion to the amounts described in this clause Second payable to them;

*Third*, to payment of that portion of the Obligations constituting accrued and unpaid interest on the Loans, ratably among the Secured Parties 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, ratably among the Secured Parties in proportion to the respective amounts described in this clause Fourth held by them;

*Fifth*, to the payment of all other Secured Obligations of the Loan Parties that are due and payable to the Administrative Agent and the other Secured Parties on such date, ratably based upon the respective aggregate amounts of all such Obligations owing to the Administrative Agent and the other Secured Parties on such date; and

*Last*, the balance, if any, after all of the Secured Obligations then earned, due and payable have been paid in full, to the Borrower or as otherwise required by Law.

**SECTION 8.04 Borrower's Right to Cure** Notwithstanding anything to the contrary contained in Section 8.01 or Section 8.02:

(a) For the purpose of determining whether an Event of Default under Section 7.11 has occurred, the Borrower may on one or more occasions designate any portion of the net cash proceeds from a sale or issuance of Qualified Equity Interests of Parent (the "**Cure Amount**") as an increase to Consolidated EBITDA for the applicable fiscal quarter; provided that such amounts to be designated (i) are actually received by Parent after the first day of the applicable fiscal quarter and on or prior to the tenth Business Day after the date on which financial statements are required to be delivered with respect to such fiscal quarter (the "**Cure Expiration Date**") and (ii) do not exceed the aggregate amount necessary to cure (x) any Event of Default under Section 7.11 as of such date and (y) any Event of Default under Section 7.11 (or any comparable section) of the First Lien Credit Agreement (for the avoidance of doubt, any such amount so designated pursuant to the foregoing clause (y) shall not exceed 100% of the aggregate amount necessary to cure any such breach under the First Lien Credit Agreement). The Cure Amount shall be added to Consolidated EBITDA for the applicable fiscal quarter and included when calculating Consolidated EBITDA for each Test Period that includes such fiscal quarter.

(b) The parties hereby acknowledge that this Section 8.04 may not be relied on for purposes of calculating any financial ratios other than for determining actual compliance with Section 7.11 and shall not result in any adjustment to any amounts hereunder (including the amount of the Cumulative Credit, Indebtedness, Total Assets, LTM EBITDA, Consolidated First Lien Net Debt, Consolidated Senior Secured Net Debt or Consolidated Total Net Debt or any other calculation of net leverage or Indebtedness hereunder (directly or by way of netting) and shall not be included for purposes of determining pricing, mandatory prepayments, financial ratio-based conditions and the availability or amount permitted pursuant to any covenant under Article 7) with respect to the quarter with respect to which such Cure Amount was made other than the amount of the Consolidated EBITDA referred to in Section 8.04(a) above.

(c) In furtherance of Section 8.04(a) above, (i) upon actual receipt of the Cure Amount by Parent and designation of the Cure Amount by the Borrower, the covenant under Section 7.11 shall be deemed retroactively cured with the same effect as though there had been no failure to comply with the covenant under such Section 7.11 and any Event of Default or potential Event of Default under Section 7.11 shall be deemed not to have occurred for purposes of the Loan Documents, and (ii) neither the Administrative Agent nor any Lender may exercise any rights or remedies under Section 8.02 (or

under any other Loan Document) on the basis of any actual or purported Event of Default under Section 7.11 until and unless the Cure Expiration Date has occurred without the Cure Amount having been received and designated. Notwithstanding the foregoing, no Credit Extension shall be made until receipt by the Administrative Agent of the Cure Amount or waiver of the Event of Default.

(d) (i) In each period of four consecutive fiscal quarters, there shall be at least two fiscal quarters in which no cure right set forth in this Section 8.04 is exercised and (ii) there shall be no *pro forma* reduction in Indebtedness (directly or by way of netting) with the Cure Amount for determining compliance with Section 7.11 for the fiscal quarter with respect to which such Cure Amount was made.

(e) There can be no more than five fiscal quarters in which the cure rights set forth in this Section 8.04 are exercised during the term of the Facilities.

## **ARTICLE 9**

### **ADMINISTRATIVE AGENT AND OTHER AGENTS**

#### **SECTION 9.01 Appointment and Authority.**

(a) Each of the Lenders 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 or related thereto. The provisions of this Article 9 (other than Sections 9.01, 9.06 and 9.09 through and including 9.12) are solely for the benefit of the Administrative Agent and the Lenders, and no Loan Party has rights as a third party beneficiary of any of such provisions.

(b) The Administrative Agent shall also act as the “collateral agent” under the Loan Documents, and each of the Lenders hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of such Lender for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Secured Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Administrative Agent, as “collateral agent” and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Section 9.05 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent, shall be entitled to the benefits of all provisions of this Article 9 and Article 10 (including the second paragraph of Section 10.05), as though such co-agents, sub-agents and attorneys-in-fact were the “collateral agent” under the Loan Documents as if set forth in full herein with respect thereto. Without limiting the generality of the foregoing, the Lenders hereby expressly authorize the Administrative Agent to (i) execute any and all documents (including releases) with respect to the Collateral (including each Intercreditor Agreement and any amendment, supplement, modification or joinder with respect thereto) and the rights of the Secured Parties with respect thereto, as contemplated by and in accordance with the provisions of this Agreement and the Collateral Documents and acknowledge and agree that any such action by any Agent shall bind the Lenders and (ii) negotiate, enforce or settle any claim, action or proceeding affecting the Lenders in their capacity as such, at the direction of the Required Lenders, which negotiation, enforcement or settlement will be binding upon each Lender.

**SECTION 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.

**SECTION 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 (i) expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law or (ii) be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law;

(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;

(d) 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 as determined by a court of competent jurisdiction in a final and nonappealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until written notice describing such Default is given to the Administrative Agent by the Borrower or a Lender; and

(e) 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 4 or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

In addition, any assignor of a Loan or seller of a participation hereunder shall be entitled to rely conclusively on a representation of the assignee Lender or Participant in the relevant assignment or participation agreement, as applicable, that such assignee or purchaser is not a Disqualified Institution; provided that such representation shall only be required to be made if the list of Disqualified Institutions is made to all Lenders and such assignees. None of the Agents shall have any responsibility or liability for monitoring the list or identities of, or enforcing provisions relating to, Disqualified Institutions.

**SECTION 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 in good faith 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 in good faith 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 that by its terms must be fulfilled to the satisfaction of a Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender prior to the making of such Loan. 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.

**SECTION 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 9 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. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

**SECTION 9.06 Resignation of Administrative Agent.** The Administrative Agent may at any time give notice of its resignation to the Lenders and the Borrower. If the Administrative Agent is a Defaulting Lender, the Borrower may remove such Defaulting Lender from such role upon 15 days' notice to the Lenders. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, with the consent of the Borrower at all times other than upon the occurrence and during the continuation of an Event of Default under Section 8.01(a) or 8.01(f) (which consent of the Borrower shall not be unreasonably withheld, conditioned or delayed), 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. 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 appoint a successor Administrative Agent meeting the qualifications set forth above (including consent of the Borrower); 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 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 directly, until such time as the Required Lenders appoint a successor Administrative Agent as provided for above in this Section 9.06. 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 9.06). 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 9 and Sections 10.04 and 10.05 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.

**SECTION 9.07 Non-Reliance on Administrative Agent and Other Lenders** Each Lender 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 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.

**SECTION 9.08 No Other Duties, Etc.** Anything herein to the contrary notwithstanding, none of the Administrative Agent, Bookrunners, Arrangers or Syndication Agents 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 or a Lender hereunder.

**SECTION 9.09 Administrative Agent May File Proofs of Claim** Subject to the terms, conditions and provisions of the Intercreditor Agreements, 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 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 and all other Secured 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 and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under Sections 2.09, 10.04 and 10.05) 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 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, 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, 10.04 and 10.05.

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 any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender to authorize the Administrative Agent to vote in respect of the claim of any Lender or in any such proceeding.

**SECTION 9.10 Collateral and Guaranty Matters.** Each Lender hereby agrees, and each holder of any Note by the acceptance thereof will be deemed to agree, that, except as otherwise set forth herein, any action taken by the Required Lenders in accordance with the provisions of this Agreement or the Collateral Documents, and the exercise by the Required Lenders of the powers set forth herein or therein, together with such other powers as are reasonably incidental thereto, shall be authorized and binding upon all of the Lenders. The Administrative Agent is hereby authorized on behalf of all of the Lenders, without the necessity of any notice to or further consent from any Lender, from time to time prior to the occurrence and continuance of an Event of Default, to take any action with respect to any Collateral or Collateral Documents which may be necessary to create, perfect and maintain perfected security interests in and liens upon the Collateral granted pursuant to the Collateral Documents. Each of the Lenders irrevocably authorizes the Administrative Agent, at its option, and in its sole discretion:

(a) to enter into and sign for and on behalf of the Lenders as Secured Parties the Collateral Documents for the benefit of the Lenders and the other Secured Parties;

(b) to automatically release any Lien on any property granted to or held by the Administrative Agent under any Loan Document (i) upon termination of the Aggregate Commitments and payment in full of all Obligations (other than contingent obligations for which no claim has been made), (ii) at the time the property subject to such Lien is Disposed or to be Disposed as part of or in connection with any Disposition permitted hereunder or under any other Loan Document, (iii) subject to Section 10.01, if the release of such Lien is approved, authorized or ratified in writing by the Required Lenders, (iv) if the property subject to such Lien is owned by a Guarantor, upon release of such Guarantor from its obligations under its Guaranty pursuant to Section 9.10(d) or (v) if such Lien is released under the First Lien Loan Documents (other than in connection with the Discharge of First Lien Credit Agreement Obligations) in accordance with the terms, conditions and provisions of the Intercreditor Agreements;

(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 to be senior to the Liens securing the Secured Obligations pursuant to Sections 7.01(b), (u), (w) (with respect to assumed Indebtedness), (aa) (with respect to Section 7.01(b) and (u)) and (bb); and

(d) to release any Subsidiary Guarantor from its obligations under its Guaranty if such Person ceases to be a Restricted Subsidiary or becomes an Excluded Subsidiary as a result of a transaction or designation permitted hereunder or ceases to be a guarantor under the First Lien Loan Documents (other than in connection with the Discharge of First Lien Credit Obligations) in accordance with the terms, conditions and provisions of the Intercreditor Agreements.

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 (and each Lender irrevocably authorizes the Administrative Agent to), 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 evidence the release of 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.

The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon, or any certificate prepared by the Parent or any of its Restricted Subsidiaries in connection therewith, nor shall the Administrative Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

**SECTION 9.11 [Reserved]**.

**SECTION 9.12 Withholding Tax Indemnity**. To the extent required by any applicable Laws (as determined in good faith by the Administrative Agent), the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding Tax. If the Internal Revenue Service or any other authority of the United States or other jurisdiction asserts a claim that the Administrative Agent did not properly withhold Tax from amounts paid to or for the account of any Lender for any reason (including 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 or if any payment has been made by the Administrative Agent to any Lender without applicable withholding tax being deducted from such payment), such Lender shall, within 10 days after written demand therefor, indemnify and hold harmless the Administrative Agent (to the extent that the Administrative Agent has not already been reimbursed by the Borrower pursuant to Section 3.01 and 3.04 and without limiting or expanding the obligation of the Borrower to do so) for all amounts paid, directly or indirectly, by the Administrative Agent as Taxes or otherwise, together with all expenses incurred, including legal expenses and any other out-of-pocket expenses, whether or not such Tax was correctly or legally imposed or asserted by the relevant Governmental Authority. 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 9.12. The agreements in this Section 9.12 shall survive the resignation and/or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender and the repayment, satisfaction or discharge of all other Obligations.

**ARTICLE 10  
MISCELLANEOUS**

**SECTION 10.01 Amendments, Etc.** Except as otherwise set forth in this Agreement or the Intercreditor Agreements, no amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by any Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders (or by the Administrative Agent with the consent of the Required Lenders) (other than with respect to any amendment or waiver contemplated in Sections 10.01(a) through (i) below, which shall only require the consent of the Lenders expressly set forth therein and not Required Lenders) and the applicable Loan Party, as the case may be, and each such waiver or consent shall be

effective only in the specific instance and for the specific purpose for which given provided that no such amendment, waiver or consent shall:

(a) extend or increase the Commitment of any Lender without the written consent of each Lender holding such Commitment (it being understood that a waiver of any condition precedent set forth in Section 4.01 or 4.02, or the waiver of any Default, Event of Default, mandatory prepayment or mandatory reduction of any Commitments shall not constitute such an extension or increase);

(b) postpone any date scheduled for any payment of principal (including final maturity), interest or fees under Section 2.07, 2.08 or 2.09, respectively, without the written consent of each Lender directly and adversely affected thereby (it being understood that the waiver (or amendment to the terms) of any mandatory prepayment of the Loans or any obligation of the Borrower to pay interest at the Default Rate, any Default or Event of Default, mandatory prepayment or mandatory reduction of any Commitments shall not constitute such a postponement of any date scheduled for the payment of principal or interest and it further being understood that any change to the definition of "Consolidated First Lien Net Leverage Ratio" or the component definitions thereof or to the definition of "Consolidated Total Net Leverage Ratio" or the component definitions thereof shall not constitute a postponement of such scheduled payment);

(c) reduce or forgive the principal of, or the rate of interest specified herein on, any Loan, or (subject to clause (iv) of the second proviso to this Section 10.01) any fees or other amounts payable hereunder or under any other Loan Document (or extend the timing of payments of such fees or other amounts) without the written consent of each Lender directly and adversely affected thereby (it being understood that (i) the waiver of (or amendment to the terms of) any obligation of the Borrower to pay interest at the Default Rate, any mandatory prepayment of the Loans or mandatory reduction of any Commitments or any Default or Event of Default shall not constitute such a reduction and (ii) any change to the definition of "Consolidated First Lien Net Leverage Ratio" or the component definitions thereof or to the definition of "Consolidated Total Net Leverage Ratio" or the component definitions thereof shall not constitute a reduction or forgiveness in any rate of interest);

(d) change any provision of Section 2.12(a), 2.13 or 8.03 or the definition of "Pro Rata Share" in any manner that would alter the *pro rata* sharing of payments or other amounts required thereby, without the written consent of each Lender directly and adversely affected thereby; provided that modifications to Section 2.12(a), Section 2.13, Section 8.03 or the definition of "Pro Rata Share" in connection with (x) any buy back of Term Loans by Holdings or the Borrower pursuant to Section 10.07(l), (y) any Incremental Amendment or (z) any Extension Amendment, in each case, shall only require approval (to the extent any such approval is otherwise required) of the Required Lenders;

(e) change any provision of (i) this Section 10.01 or (ii) the definition of "Required Lenders", "Required Class Lenders" or any other provision specifying the number of Lenders or portion of the Loans or Commitments required to take any action under the Loan Documents to reduce the percentage set forth therein, without the written consent of each Lender directly and adversely affected thereby (it being understood that, with the consent of the Required Lenders or Required Class Lenders, as applicable (if such consent is otherwise required), or the Administrative Agent (if the consent of the Required Lenders or Required Class Lenders, as applicable, is not otherwise required), additional extensions of credit pursuant to this Agreement may be included in the determination of the Required Lenders, on substantially the same basis as the Term Commitments);

(f) other than in connection with a transaction permitted under Section 7.04 or 7.05, release all or substantially all of the Collateral in any transaction or series of related transactions, without

the written consent of each Lender; or

(g) other than in connection with a transaction permitted under Section 7.04 or 7.05, release all or substantially all of the aggregate value of the Guarantees, without the written consent of each Lender;

provided, further, that (i) [reserved]; (ii) [reserved]; (iii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, adversely affect the rights or duties of, or any fees or other amounts payable to, the Administrative Agent under this Agreement or any other Loan Document; (iv) only the consent of the parties to the Fee Letter shall be required to amend, modify or supplement the terms thereof; (v) Section 10.07(h) may not be amended, waived or otherwise modified without the consent of each Granting Lender all or any part of whose Loans are being funded by an SPC at the time of such amendment, waiver or other modification; and (vi) (x) no Lender consent is required to effect an Incremental Amendment, Refinancing Amendment or Extension Amendment (except as expressly provided in Sections 2.14, 2.15, or 2.16, as applicable) or to effect any amendment expressly contemplated by Section 6.18 and (y) subject to the terms of Section 3.07(d), in connection with an amendment that addresses solely a re-pricing transaction and any related amendments (including any amendments to Section 2.09(d) and related provisions) in which any Class of Term Loans is refinanced with a replacement Class of term loans bearing (or is modified in such a manner such that the resulting term loans bear) a lower Effective Yield (a “**Permitted Repricing Amendment**”), only the consent of the Lenders holding Term Loans subject to such permitted repricing transaction that will continue as Lenders in respect of the repriced tranche of Term Loans or modified Term Loans shall be required for such Permitted Repricing Amendment. 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 (x) in respect of an amendment, waiver or consent under Section 10.01(a) or (b) and (y) any waiver, amendment or modification requiring the consent of all Lenders or each directly and adversely affected Lender that by its terms materially and adversely affects any Defaulting Lender to a greater extent than other affected Lenders shall require the consent of such Defaulting Lender.

Notwithstanding the foregoing, no Lender consent is required for the Administrative Agent to enter into or to effect any amendment, modification or supplement to any Parity Intercreditor Agreement, the Closing Date Intercreditor Agreement or other intercreditor agreement or arrangement permitted under this Agreement or in any document pertaining to any Indebtedness permitted hereby that is permitted to be secured by the Collateral, including any Incremental Term Commitment, any Incremental Equivalent Debt, or any Permitted Second Priority Refinancing Debt or any Permitted Junior Priority Refinancing Debt, for the purpose of adding the holders of such Indebtedness (or their Representative) as a party thereto and otherwise causing such Indebtedness to be subject thereto, in each case as contemplated by the terms of such Parity Intercreditor Agreement, such Closing Date Intercreditor Agreement or such other intercreditor agreement or arrangement permitted under this Agreement, as applicable (it being understood that any such amendment or supplement may make such other changes to the applicable intercreditor agreement as, in the good faith determination of the Administrative Agent, are required to effectuate the foregoing and provided that such other changes are not adverse, in any material respect (taken as a whole), to the interests of the Lenders); provided, further, that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent hereunder or under any other Loan Document without the prior written consent of the Administrative Agent.

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 (a) to add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time

outstanding 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 Term Loans and the accrued interest and fees in respect thereof and (b) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders.

In addition, notwithstanding the foregoing, this Agreement may be amended with the written consent of the Administrative Agent, the Borrower and the Lenders providing the Replacement Term Loans (as defined below) to permit the refinancing of all or a portion of the outstanding Term Loans of any Class (“**Refinanced Term Loans**”) with one or more tranches of replacement term loans (“**Replacement Term Loans**”) hereunder; provided that (a) the Applicable Rate for such Replacement Term Loans shall not be higher than the Applicable Rate for such Refinanced Term Loans unless the maturity of the Replacement Term Loans is at least one year later than the maturity of the Refinanced Term Loans, (b) the aggregate principal amount of such Replacement Term Loans shall not exceed the aggregate principal amount of such Refinanced Term Loans (*plus* accrued interest, fees, expenses and premium), (c) the Weighted Average Life to Maturity of Replacement Term Loans shall not be shorter than the Weighted Average Life to Maturity of such Refinanced Term Loans, at the time of such refinancing, (d) such Replacement Term Loans must satisfy the requirements of Credit Agreement Refinancing Indebtedness and (e) all other terms applicable to such Replacement Term Loans shall be as agreed between the Borrower and the Lenders providing such Replacement Term Loans.

Notwithstanding anything to the contrary contained in this Section 10.01, guarantees, collateral security documents and related documents executed by the Loan Parties or the Subsidiaries in connection with this Agreement may be in a form reasonably determined by the Administrative Agent and (x) may be, together with this Agreement, amended and waived with the consent of the Administrative Agent at the request of the Borrower without the need to obtain the consent of any other Lender if such amendment or waiver is delivered in order (i) to comply with local Law or advice of local counsel or (ii) to cause such guarantee, collateral security document or other document to be consistent with this Agreement and the other Loan Documents and (y) shall be amended as required by the Closing Date Intercreditor Agreement or any other Intercreditor Agreement.

Notwithstanding anything to the contrary contained in Section 10.01, if at any time after the Closing Date, the Administrative Agent and the Borrower shall have jointly identified an obvious error or any error or omission of a technical nature, in each case, 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 following receipt of notice thereof.

## **SECTION 10.02 Notices and Other Communications; Facsimile Copies**

### *(a) Notices; Effectiveness; Electronic Communications.*

*(i) Notices Generally.* Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in Section 10.02(a)(ii)), 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 facsimile 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:

(A) if to the Borrower or the Administrative Agent, to the address,

facsimile number, electronic mail address or telephone number specified for such Person on Schedule 10.02(a); and

(B) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire.

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by facsimile 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 and other communications delivered through electronic communications to the extent provided in Section 10.02(a)(ii) shall be effective as provided in such Section 10.02(a)(ii).

(ii) *Electronic Communications.* Notices and other communications to the Lenders 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 pursuant to Article 2 if such Lender 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.

(b) *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 Loan Parties, any Lender 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 the 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 non-appealable judgment to have resulted from the gross negligence, bad faith, material breach or willful misconduct of such Agent Party (or its representatives); provided, however, that in no event shall any Person have any liability to any other Person hereunder for indirect, special, incidental, consequential or

punitive damages (as opposed to direct or actual damages); provided that nothing in this sentence shall limit any Loan Party's indemnification obligations set forth herein.

(c) *Change of Address, Etc.* Each of the Borrower and the Administrative Agent may change its address, electronic mail address, facsimile or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, electronic mail address, facsimile or telephone number for notices and other communications hereunder by notice to the Borrower and the Administrative Agent. 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, facsimile 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 the Borrower Materials that are not made available through the "Public Side Information" portion of the Platform and that may contain Material Non-Public Information.

(d) *Reliance by Administrative Agent and Lenders.* The Administrative Agent and the Lenders shall be entitled to rely and act upon any notices (including telephonic Committed 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, 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 in accordance with Section 10.05 hereof. 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.

**SECTION 10.03 No Waiver; Cumulative Remedies.** No failure by any Lender 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.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 8.02 for the benefit of all the Lenders; provided, however, that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) [reserved], (c) any Lender from exercising setoff rights in accordance with Section 10.09 (subject to the terms of Section 2.13) or (d) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under any Debtor Relief Law; provided, further, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Section 8.02 and (ii) in addition to the matters

set forth in clauses (b), (c) and (d) of the preceding proviso and subject to Section 2.13, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

**SECTION 10.04 Attorney Costs and Expenses.** The Borrower agrees (a) if the Closing Date occurs, (1) to pay or reimburse the Administrative Agent, the Syndication Agents, the Arrangers and the Bookrunners and their respective Affiliates for all reasonable and documented out-of-pocket costs and expenses incurred in connection with the preparation, negotiation, syndication, execution and delivery of this Agreement and the other Loan Documents, and (2) to pay or reimburse the Administrative Agent and its Affiliates for all reasonable and documented out-of-pocket costs and expenses incurred in connection with the administration of this Agreement and the other Loan Documents and any amendment, waiver, consent or other modification of the provisions hereof and thereof (whether or not the transactions contemplated thereby are consummated), and the consummation and administration of the transactions contemplated hereby and thereby, including, in each case, all Attorney Costs, which shall be limited to one primary counsel to the Administrative Agent, the Syndication Agents, the Arrangers and the Bookrunners and their respective Affiliates, taken as a whole, or the Administrative Agent (and its Affiliates), as applicable, and, if reasonably necessary, one local counsel in each relevant jurisdiction material to the interests of the Lenders taken as a whole or otherwise retained with the Borrower's consent (not to be unreasonably withheld, delayed or conditioned and (b) from and after the Closing Date, to pay or reimburse the Administrative Agent and the Lenders for all reasonable and documented out-of-pocket costs and expenses incurred in connection with the enforcement or protection of any rights or remedies under this Agreement or the other Loan Documents (including all such costs and expenses incurred during any legal proceeding, including any proceeding under any Debtor Relief Law, and including all respective Attorney Costs, which shall be limited to Attorney Costs of one counsel to the Administrative Agent, and if reasonably necessary, one local counsel in each relevant jurisdiction material to the interests of the Lenders taken as a whole and, solely in the case of an actual conflict of interest, where the Lenders affected by such conflict notify the Borrower of the existence of such conflict and thereafter, after receipt of the Borrower's consent (which consent shall not be unreasonably withheld or delayed), one additional counsel to each group of similarly situated affected parties). The agreements in this Section 10.04 shall survive the termination of the Aggregate Commitments and repayment of all other Obligations. All amounts due under this Section 10.04 shall be paid within 30 days following receipt by the Borrower of an invoice relating thereto setting forth such expenses in reasonable detail (provided that the Lender need not be required to disclose any confidential information or to the extent prohibited by law or regulation); provided that, with respect to the Closing Date, all amounts due under this Section 10.04 shall be paid on the Closing Date solely to the extent invoiced to the Borrower within two Business Days of the Closing Date. If any Loan Party fails to pay when due any costs, expenses or other amounts payable by it hereunder or under any Loan Document, such amount may be paid on behalf of such Loan Party by the Administrative Agent in its discretion following five Business Days' prior written notice to the Borrower. For the avoidance of doubt, this Section 10.04 shall not apply to Taxes, except any Taxes that represent costs and expenses arising from any non-Tax claim.

**SECTION 10.05 Indemnification by the Borrower.** The Borrower shall indemnify and hold harmless each Agent, Agent-Related Person, Lender, Arranger and Bookrunner and their respective Affiliates, and their respective officers, directors, employees, partners, agents, advisors and other representatives of each of the foregoing and their respective successors and permitted assignees (collectively the "**Indemnitees**") from and against any and all actual liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses and disbursements (including Attorney Costs but limited in the case of legal fees and expenses to the reasonable and documented out-of-pocket fees, disbursements and other charges of one counsel to all Indemnitees taken as a whole and, if reasonably necessary, one local counsel for all Indemnitees taken as a whole in each relevant jurisdiction that is material to the interests of the Lenders, and in the case of an actual or potential

conflict of interest, where the Indemnitees affected by such conflict notify the Borrower of the existence of such conflict and thereafter, after receipt of the Borrower's consent (which consent shall not be unreasonably withheld or delayed), one additional counsel to each group of similarly situated affected Indemnitees), joint or several, of any kind or nature whatsoever which may at any time be imposed on, incurred by or asserted against any such Indemnitee in any way relating to or arising out of or in connection with (a) the execution, delivery, enforcement, performance or administration of any Loan Document or any other agreement, letter or instrument delivered in connection with the transactions contemplated thereby or the consummation of the transactions contemplated thereby, (b) any Commitment or Loan or the use or proposed use of the proceeds therefrom, or (c) any actual or alleged presence or Release of Hazardous Materials at, in, on, under or from any property or facility currently or formerly owned, leased or operated by the Loan Parties or any Subsidiary, or any Environmental Liability or (d) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory (including any investigation of, preparation for, or defense of any pending or threatened claim, investigation, litigation or proceeding) (a "**Proceeding**") and regardless of whether any Indemnitee is a party thereto or whether or not such Proceeding is brought by the Borrower or any other person and, in each case, whether or not caused by or arising, in whole or in part, out of the negligence of the Indemnitee; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses or disbursements resulted from (w) the gross negligence, bad faith or willful misconduct of such Indemnitee or of any of its controlled Affiliates or their respective directors, officers, employees, partners or other representatives, as determined by a final non-appealable judgment of a court of competent jurisdiction, (x) a material breach of any obligations under any Loan Document by such Indemnitee or of any of its controlled Affiliates or their respective directors, officers, employees, partners or other representatives, as determined by a final non-appealable judgment of a court of competent jurisdiction, (y) any dispute solely among Indemnitees other than any claims against an Indemnitee in its capacity or in fulfilling its role as an administrative agent or an arranger or any similar role under any Facility and other than any claims arising out of any act or omission of Holdings, the Borrower or any of their Affiliates or (z) settlements effected without the Borrower's prior written consent (such consent not to be unreasonably withheld, delayed or conditioned), but if settled with the Borrower's written consent, or if there is a final judgment against an Indemnitee in any such Proceeding, the Borrower shall indemnify and hold harmless such Indemnitee to the extent and the manner set forth above. No Indemnitee shall be liable for any damages arising from the use by others of any information or other materials obtained through electronic, telecommunications or other information transmission systems, including, without limitation, SyndTrak, IntraLinks, the internet, email or similar electronic transmission systems in connection with this Agreement, in each case, except to the extent any such damages are found in a final non-appealable judgment of a court of competent jurisdiction to have resulted from the gross negligence, bad faith or willful misconduct of, or material breach of this Agreement or the other Loan Documents by, such Indemnitee (or its controlling Persons, controlled Affiliates or their respective directors, officers, employees, partners or other representatives), nor shall the Sponsor or any Indemnitee, Loan Party or any Subsidiary have any liability for any special, punitive, indirect or consequential damages relating to this Agreement or any other Loan Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date); it being agreed that this sentence shall not limit the indemnification obligations of Parent, Holdings or any Subsidiary (including, in the case of any Loan Party, in respect of any such damages incurred or paid by an Indemnitee to a third party and for any out-of-pocket expenses). In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 10.05 applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by any Loan Party, any Subsidiary of any Loan Party, its directors, equity holders or creditors or an Indemnitee or any other Person, whether or not any Indemnitee is otherwise a party thereto and whether or not any of the transactions contemplated hereunder or under any of the other Loan Documents are consummated. All amounts due under this Section 10.05 shall be paid within thirty (30) days after written demand therefor

(together with reasonable backup documentation supporting such reimbursement request); provided, however, that such Indemnitee shall promptly refund such amount to the extent that there is a final judicial or arbitral determination that such Indemnitee was not entitled to indemnification rights with respect to such payment pursuant to the express terms of clauses (w) through (z) above. The agreements in this Section 10.05 shall survive the resignation of the Administrative Agent, the replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations. For the avoidance of doubt, this Section 10.05 shall not apply to Taxes, except any Taxes that represent liabilities, obligations, losses, damages, penalties, claims, demands, actions, prepayments, suits, costs, expenses and disbursements arising from any non-Tax claims.

To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under this Section 10.05 or Section 10.04 to be paid by it to the Administrative Agent (or any sub-agent thereof) or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent) or such Related Party, as the case may be, such Lender's Pro Rata Share (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) 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) in connection with such capacity. The obligations of the Lenders under this paragraph are subject to the provisions of Section 2.12(e).

**SECTION 10.06 Payments Set Aside.** To the extent that any payment by or on behalf of the Borrower is made to the Administrative Agent or any Lender, or the Administrative Agent 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 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 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 Effective Rate from time to time in effect. The obligations of the Lenders under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

**SECTION 10.07 Successors and Assigns.**

(a) 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 or under any other Loan Document without the prior written consent of the Administrative Agent and each Lender (except as permitted by Section 7.04) and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Assignee pursuant to an assignment made in accordance with the provisions of Section 10.07(b) (such an assignee, an "Eligible Assignee") and (A) in the case of any Assignee that, immediately prior to or upon giving effect to such assignment, is an Affiliated Lender, Section 10.07(k), (B) in the case of any Assignee that is Parent or any of its Subsidiaries, Section 10.07(l), or (C) in the case of any Assignee that, immediately prior to or upon giving effect to such assignment, is a Debt Fund Affiliate, Section 10.07(o), (ii) by way of participation in accordance with the provisions of Section 10.07(e), (iii) by way of pledge or assignment of a security interest subject to the restrictions of

Section 10.07(g) or (iv) to an SPC in accordance with the provisions of Section 10.07(h) (and any other attempted assignment or transfer by any party hereto shall be null and void); provided, however, that notwithstanding the foregoing, no Lender may assign or transfer by participation any of its rights or obligations hereunder to (i) any Person that is a Defaulting Lender, (ii) a natural Person, (iii) so long as the list of Disqualified Institutions has been made available to all Lenders, a Disqualified Institution, (iv) Parent, Holdings, the Borrower or any of their respective Subsidiaries (except pursuant to Section 2.05(a)(v) or 10.07(l), as applicable) and (v) Affiliated Lenders (except pursuant to Section 10.07(k)) or Debt Fund Affiliates (except pursuant to Section 10.07(e) or (o)). 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 Section 10.07(e) and, to the extent expressly contemplated hereby, the Indemnitees) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in Section 10.07(b)(ii) below and the proviso to Section 10.07(a), any Lender may at any time assign to one or more assignees (each, an “Assignee”) all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld, conditioned or delayed) of:

(A) the Borrower; provided that no consent of the Borrower shall be required for (i) an assignment of all or a portion of the Term Loans to a Lender or to an Affiliate of a Lender or an Approved Fund thereof, (ii) [reserved], (iii) prior to the completion of primary syndication, an assignment of all or a portion of the Initial Term Loans to any Assignee approved by the Sponsor and (iv) after the occurrence and during the continuance of an Event of Default under Section 8.01(a) or Section 8.01(f) (with respect to the Borrower), an assignment to any Assignee; provided, further, that the Borrower shall be deemed to have consented to any such assignment unless it shall have objected thereto by written notice to the Administrative Agent within 10 Business Days after having received written notice thereof; and

(B) the Administrative Agent; provided that no consent of the Administrative Agent shall be required for an assignment of all or any portion of a Term Loan to a Lender, an Affiliate of a Lender or an Approved Fund.

Notwithstanding the foregoing or anything to the contrary set forth herein, to the extent any Lender is required to assign any portion of its Commitments, Loans and other rights, duties and obligations hereunder in order to comply with applicable Laws, such assignment may be made by such Lender without the consent of the Borrower, the Administrative Agent or any other party hereto so long as such Lender complies with the requirements of Section 10.07(b)(ii).

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment of the entire remaining amount of the assigning Lender’s Commitment or Loans of any Class, the amount of the Commitment or 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) shall not be less than \$1,000,000, and shall be in increments of an amount of \$1,000,000, in excess thereof unless each of the Borrower and the Administrative Agent otherwise consents; provided that concurrent assignments to any Lender and its Affiliates or Approved Funds and concurrent assignments from any Lender and its Affiliates or Approved Funds to a single Assignee (or to an Assignee and its Affiliates or Approved Funds) will be

treated as a single assignment for purposes of determining whether such minimum amount has been met;

(B) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption via an electronic settlement system acceptable to the Administrative Agent (or, if previously agreed with the Administrative Agent, manually), and shall pay to the Administrative Agent a processing and recordation fee of \$3,500 (which fee may be waived or reduced in the sole discretion of the Administrative Agent); provided that only one such fee shall be payable in the event of simultaneous assignments to or from two or more Approved Funds;

(C) other than in the case of assignments pursuant to Section 10.07(l), the Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire; and

(D) the Assignee shall execute and deliver to the Administrative Agent and the Borrower the forms described in Sections 3.01(d) and 3.01(e) applicable to it.

This Section 10.07(b) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate Facilities on a non-*pro rata* basis among such Facilities.

In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or sub-participations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable *pro rata* share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent or any Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full *pro rata* share of all Loans in accordance with its Pro Rata Share. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

(c) Subject to acceptance and recording thereof by the Administrative Agent pursuant to Section 10.07(d), from and after the effective date specified in each Assignment and Assumption, (1) other than in connection with an assignment pursuant to Section 10.07(l) the Eligible 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 (subject to Sections 10.07(k), (m) and (n)), and (2) 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, 10.04 and 10.05 with respect to facts and circumstances occurring prior to the effective date of such assignment). Upon request, and the surrender by the assigning Lender of its Note, 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 Section 10.07(c) 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 10.07(e).

(d) 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, each Affiliated Lender Assignment and Assumption delivered to it, and each notice of cancellation of any Loans delivered by the Borrower pursuant to Section 10.07(l) and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and related interest amounts) of the Loans owing to each Lender pursuant to the terms hereof from time to time (the "**Register**"). Upon its receipt of, and consent to, a duly completed Assignment and Assumption executed by an assigning Lender and an assignee, an Administrative Questionnaire completed in respect of the assignee (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in Section 10.07(b)(ii)(B) above, if applicable, and, if required, the written consent of the Administrative Agent and the Borrower to such assignment and any applicable tax forms, the Administrative Agent shall (i) accept such Assignment and Assumption and (ii) promptly record the information contained therein in the Register. No assignment shall be effective unless it has been recorded in the Register as provided in this Section 10.07(d). The entries in the Register shall be conclusive, absent manifest error, and the Borrower, the Agents 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. The Register shall be available for inspection by the Borrower and, with respect to itself, any Lender, at any reasonable time and from time to time upon reasonable prior notice; provided that the information contained in the Register which is shared with each Lender (other than the Administrative Agent and its affiliates) shall be limited to the entries with respect to such Lender including the Term Commitment of, or principal amount of and stated interest on the Term Loans owing to such Lender. This Section 10.07(d) and Section 2.11 shall be construed so that all Loans are at all times maintained in "registered form" within the meaning of Section 163(f), 871(h)(2) and 881(c)(2) of the Code and any related Treasury regulations (or any other relevant or successor provisions of the Code or of such Treasury regulations). Notwithstanding the foregoing, in no event shall the Administrative Agent be obligated to ascertain, monitor or inquire as to whether any Lender is an Affiliated Lender nor shall the Administrative Agent be obligated to monitor the aggregate amount of Term Loans held by Affiliated Lenders. Upon request by the Administrative Agent, the Borrower shall (i) promptly (and in any case, not less than three Business Days (or shorter period as agreed to by the Administrative Agent) prior to the proposed effective date of any amendment, consent or waiver pursuant to Section 10.01) provide to the Administrative Agent, a complete list of all Affiliated Lenders holding Term Loans at such time and (ii) not less than three Business Days (or shorter period as agreed to by the Administrative Agent) prior to the proposed effective date of any amendment, consent or waiver pursuant to Section 10.01, provide to the Administrative Agent, a complete list of all Debt Fund Affiliates holding Term Loans at such time.

(e) Any Lender may at any time sell participations to any Person (other than a natural person, a Defaulting Lender, Holdings, Parent, the Borrower, any Non-Debt Fund Affiliate or so long as the list of Disqualified Institutions has been made available to all Lenders, any Disqualified Institution) (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 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 Agents and the other Lenders 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 the other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement or the other Loan Documents; 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 clauses (a) through (i) of the first proviso to Section 10.01 that requires the affirmative vote of such Lender. Subject to Section 10.07(f), 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 of such Sections and Section 3.07, including Section 3.01(d), and it being understood that the documentation required under Section 3.01(d) shall be delivered solely to the participating Lender) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 10.07(c). To the extent permitted by applicable Law, each Participant also shall be entitled to the benefits of Section 10.09 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.13 as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as an 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 Loans or other obligations under this Agreement (the "**Participant Register**"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any Commitments, Loans or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is reasonably necessary to establish that such Commitment, Loan or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The Participant Register shall be conclusive, 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.

(f) A Participant shall not be entitled to receive any greater payment under Section 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 consent or except to the extent such entitlement to a greater payment results from a change in any Law after the sale of the participation takes place.

(g) Any Lender may, without the consent of the Borrower or the Administrative Agent, 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 over such Lender; 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.

(h) Notwithstanding anything to the contrary contained herein, any Lender (a "**Granting Lender**") may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower (an "**SPC**") the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPC to fund any Loan, (ii) if an SPC elects not to exercise such option or otherwise fails to make all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof and (iii) such SPC and the applicable Loan or any applicable part thereof, shall be appropriately reflected in the Participant Register. Each party hereto hereby agrees that (i) an SPC shall be entitled to the benefit of Sections 3.01, 3.04 and 3.05 (subject to the requirements and the limitations of such Sections and Section 3.07, including Section 3.01(d), and it being understood that the documentation required under Section 3.01(d) shall be delivered solely to the participating Lender), but 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 except, in the case of Section 3.01 and 3.04, unless

such entitlement to a greater payment results from a change in any Law after the grant to the SPC takes place, (ii) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement for which a Lender would be liable, and (iii) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Loan Document, remain the lender of record hereunder. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Notwithstanding anything to the contrary contained herein, any SPC may (i) with notice to, but without prior consent of the Borrower and the Administrative Agent and with the payment of a processing fee of \$3,500, assign all or any portion of its right to receive payment with respect to any Loan to the Granting Lender and (ii) disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or Guarantee or credit or liquidity enhancement to such SPC.

(i) Notwithstanding anything to the contrary contained herein, without the consent of the Borrower or the Administrative Agent, (1) any Lender may in accordance with applicable Law create a security interest in all or any portion of the Loans owing to it and the Note, if any, held by it and (2) any Lender that is a Fund may create a security interest in all or any portion of the Loans owing to it and the Note, if any, held by it to the trustee for holders of obligations owed, or securities issued, by such Fund as security for such obligations or securities; provided that unless and until such trustee actually becomes a Lender in compliance with the other provisions of this Section 10.07, (i) no such pledge shall release the pledging Lender from any of its obligations under the Loan Documents and (ii) such trustee shall not be entitled to exercise any of the rights of a Lender under the Loan Documents even though such trustee may have acquired ownership rights with respect to the pledged interest through foreclosure or otherwise.

(j) [reserved].

(k) Any Lender may, at any time, without any consent, assign all or a portion of its rights and obligations with respect to Term Loans under this Agreement to a Person who is or will become, after such assignment, an Affiliated Lender through (x) Dutch auctions open to all Lenders on a *pro rata* basis in accordance with procedures of the type described in Section 2.05(a)(v) or (y) open market purchases on a non-*pro rata* basis, in each case subject to the following limitations:

(i) no assignment of Term Loans to an Affiliated Lender may be purchased with the proceeds of any Revolving Credit Loan;

(ii) the assigning Lender and the Affiliated Lender purchasing such Lender's Term Loans shall execute and deliver to the Administrative Agent an assignment agreement substantially in the form of Exhibit K hereto (an "**Affiliated Lender Assignment and Assumption**"), which Affiliated Lender assignment and assumption shall include customary "big boy" language regarding information that is not known to such assigning Lender that may be material to the decision by such assigning Lender to enter into such assignment to such Affiliated Lender;

(iii) Affiliated Lenders (A) will not receive access to the Platform or information provided solely to Lenders by the Administrative Agent or any Lender, other than the right to receive notices of prepayments and other administrative notices in respect of its Loans or Commitments required to be delivered to Lenders pursuant to Article 2, (B) will not be permitted to attend or participate in conference calls or meetings attended solely by the Lenders and the

Administrative Agent and (C) will not receive advice of counsel to the Administrative Agent and the Lenders; and

(iv) the aggregate principal amount of Term Loans (as of the date of consummation of any transaction under this Section 10.07(k)) held at any one time by all Affiliated Lenders shall not exceed 25% of the aggregate principal amount of any Class of Term Loans at such time outstanding (such percentage, the “**Affiliated Lender Cap**”).

Each Affiliated Lender agrees to notify the Administrative Agent promptly (and in any event within 10 Business Days) if it acquires any Person who is also a Lender, and each Lender agrees to notify the Administrative Agent promptly (and in any event within 10 Business Days) if it becomes an Affiliated Lender. Such notice shall contain the type of information required and be delivered to the same addressee as set forth in Exhibit E-2.

Each Lender participating in any assignment to Affiliated Lenders acknowledges and agrees that in connection with such assignment, (1) the Affiliated Lenders then may have, and later may come into possession of Excluded Information, (2) such Lender has independently and, without reliance on the Affiliated Lenders or any of their Subsidiaries, Parent, Holdings, the Borrower or any of their Subsidiaries, the Administrative Agent or any other Agent-Related Persons, has made its own analysis and determination to participate in such assignment notwithstanding such Lender’s lack of knowledge of the Excluded Information, (3) none of the Affiliated Lenders or any of their Subsidiaries, Parent, Holdings, the Borrower or any of their Subsidiaries shall be required to make any representation that it is not in possession of Excluded Information, (4) none of the Affiliated Lenders or any of their Subsidiaries, Parent, Holdings, the Borrower or their respective Subsidiaries, the Administrative Agent or any other Agent-Related Persons shall have any liability to such Lender, and such Lender hereby waives and releases, to the extent permitted by law, any claims such Lender may have against the Affiliated Lenders and any of their Subsidiaries, Parent, Holdings, the Borrower and their respective Subsidiaries, the Administrative Agent and any other Agent-Related Persons, under applicable laws or otherwise, with respect to the nondisclosure of the Excluded Information and (5) that the Excluded Information may not be available to the Administrative Agent or the other Lenders.

Notwithstanding anything to the contrary in the Loan Documents, any Term Loans assigned to an Affiliated Lender in accordance with this Section 10.07(k) or to a Debt Fund Affiliate in accordance with Section 10.07(o) may be contributed to Parent (or any of its direct or indirect parents) and, in turn, directly or indirectly, to the Borrower as a common capital contribution and be exchanged for Equity Interests (other than Disqualified Equity Interests) of Parent (or any of its direct or indirect parents) to the extent otherwise permitted herein, whereupon such contributed Term Loans shall be cancelled in accordance with Section 10.07(l)(ii) below.

(l) Any Lender may, so long as no Event of Default has occurred and is continuing, at any time, without any consent, assign all or a portion of its rights and obligations with respect to Term Loans under this Agreement to Parent, Holdings or the Borrower through (x) Dutch auctions open to all Lenders on a *pro rata* basis in accordance with procedures of the type described in Section 2.05(a)(v) or (y) notwithstanding Sections 2.12 and 2.13 or any other provision in this Agreement, open market purchase on a non-*pro rata* basis, in each case subject to the following:

(i) if Parent or Holdings is the assignee, upon such assignment, transfer or contribution, such entity shall automatically be deemed to have contributed the principal amount of such Term Loans, *plus* all accrued and unpaid interest thereon, to the Borrower as common equity;

(ii) if the Borrower is the assignee (including through contribution or transfers set forth in clause (i) above), (a) the principal amount of such Term Loans, along with all accrued and unpaid interest thereon, so contributed, assigned or transferred to the Borrower shall be deemed automatically cancelled and extinguished on the date of such contribution, assignment or transfer, (b) the aggregate outstanding principal amount of Term Loans of the remaining Lenders shall reflect such cancellation and extinguishment of the Term Loans then held by the Borrower and (c) the Borrower shall promptly provide notice to the Administrative Agent of such contribution, assignment or transfer of such Term Loans, and the Administrative Agent, upon receipt of such notice, shall reflect the cancellation of the applicable Term Loans in the Register;

(iii) purchases of Term Loans pursuant to this Section 10.07(1) may not be funded with the proceeds of Revolving Credit Loans or Swing Line Loans (as defined in the First Lien Credit Agreement);

(iv) the assigning Lender and Holdings or Parent or the Borrower, as applicable, shall execute and deliver to the Administrative Agent an Affiliated Lender Assignment and Assumption substantially in the form of Exhibit K hereto;

(v) [reserved]; and

(vi) notwithstanding anything to the contrary contained herein (including in the definitions of “Consolidated Net Income” and “Consolidated EBITDA”) any non-cash gains in respect of “cancellation of indebtedness” resulting from the cancellation of any Terms Loans purchased by Holdings, Parent or the Borrower shall be excluded from the determined of Consolidated Net Income and Consolidated EBITDA.

Each Lender participating in any assignment to Holdings, Parent or the Borrower acknowledges and agrees that in connection with such assignment, (1) Holdings, Parent or the Borrower then may have, and later may come into possession of Excluded Information, (2) such Lender has independently and, without reliance on Holdings, Parent, the Borrower or any of their Subsidiaries, the Administrative Agent or any other Agent-Related Persons, made its own analysis and determination to participate in such assignment notwithstanding such Lender’s lack of knowledge of the Excluded Information, (3) none of Holdings, Parent, the Borrower or their respective Subsidiaries, the Administrative Agent or any other Agent-Related Persons shall have any liability to such Lender, and such Lender hereby waives and releases, to the extent permitted by law, any claims such Lender may have against Holdings, Parent, the Borrower and their respective Subsidiaries, the Administrative Agent and any other Agent-Related Persons, under applicable laws or otherwise, with respect to the nondisclosure of the Excluded Information and (4) that the Excluded Information may not be available to the Administrative Agent or the other Lenders.

The aggregate outstanding principal amount of the Term Loans of the applicable Class shall be deemed reduced by the full par value of the aggregate principal amount of the Term Loans purchased by, or contributed to (in each case, and subsequently cancelled hereunder), Holdings, Parent or its Subsidiaries pursuant to this Section 10.07(1) and each principal repayment installment with respect to the Term Loans of such Class pursuant to Section 2.07(a) shall be reduced *pro rata* by the par value of the aggregate principal amount of Term Loans so purchased or contributed (and subsequently cancelled).

Any purchase of Term Loans pursuant to this Section 10.07(1) shall not constitute voluntary or mandatory payment or prepayment under this Agreement.

(m) Notwithstanding anything in Section 10.01 or the definition of “Required Lenders” to the contrary, for purposes of determining whether the Required Lenders have (i) consented (or not consented) to any amendment, modification, waiver, consent or other action with respect to any of the terms of any Loan Document or any departure by any Loan Party therefrom, or subject to Section 10.07(n), any plan of reorganization pursuant to the Bankruptcy Code, (ii) otherwise acted on any matter related to any Loan Document, or (iii) directed or required the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) with respect to or under any Loan Document, no Affiliated Lender shall have any right to consent (or not consent), otherwise act or direct or require the Administrative Agent or any Lender to take (or refrain from taking) any such action and:

(A) all Term Loans held by any Affiliated Lenders shall be deemed to be not outstanding for all purposes of calculating whether the Required Lenders have taken any actions; and

(B) all Term Loans held by Affiliated Lenders shall be deemed to be not outstanding for all purposes of calculating whether all Lenders have taken any action unless the action in question affects such Affiliated Lender in a disproportionately adverse manner than its effect on other Lenders.

(n) Additionally, the Loan Parties and Affiliated Lenders hereby agree that if a case under the Bankruptcy Code is commenced against any Loan Party, such Loan Party shall seek (and the Affiliated Lenders shall consent) to provide that the vote of the Affiliated Lenders with respect to any plan of reorganization of such Loan Party shall be counted in the same proportion as all other Lenders except that Affiliated Lenders’ vote may be counted to the extent any such plan of reorganization proposes to treat the Obligations held by Affiliated Lenders in a manner that is less favorable in any material respect to the Affiliated Lenders than the proposed treatment of similar Obligations held by Lenders that are not Affiliates of the Borrower or would deprive the Affiliated Lenders of their Pro Rata Share of any payments to which all Lenders are entitled. The Affiliated Lenders hereby irrevocably appoint the Administrative Agent (such appointment being coupled with an interest) as the Affiliated Lenders’ attorney-in-fact, with full authority in the place and stead of the Affiliated Lenders and in the name of the Affiliated Lenders, from time to time in the Administrative Agent’s discretion to take any action and to execute any instrument that the Administrative Agent may deem reasonably necessary to carry out the provisions of this Section 10.07(n).

(o) Debt Fund Affiliates shall be Eligible Assignees and shall not be subject to the provisions of Section 10.07(m) or 10.07(n). Notwithstanding anything in Section 10.01 or the definition of “Required Lenders” to the contrary, for purposes of determining whether the Required Lenders have (i) consented (or not consented) to any amendment, modification, waiver, consent or other action with respect to any of the terms of any Loan Document or any departure by any Loan Party therefrom, (ii) otherwise acted on any matter related to any Loan Document or (iii) directed or required the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) with respect to or under any Loan Document, all Term Loans held by Debt Fund Affiliates may not account for more than 49.9% (*pro rata* among such Debt Fund Affiliates) of the Term Loans of consenting Lenders included in determining whether the Required Lenders have consented to any action pursuant to Section 10.01.

(p) Notwithstanding anything to the contrary contained in this Agreement, any Lender may assign all or a portion of its Term Loans in connection with a primary syndication of such Term Loans relating to any refinancing, extension, loan modification or similar transaction permitted by

the terms of this Agreement, pursuant to cashless settlement mechanisms approved by the Borrower, the Administrative Agent, the assignor Lender and the assignee of such Lender.

**SECTION 10.08 Confidentiality.** Each of the Agents and the Lenders agrees to maintain the confidentiality of the Information, except that Information may be disclosed (a) to its Affiliates and its and its Affiliates' managers, administrators, directors, officers, employees, trustees, partners, investors, funding sources, investment advisors and agents, including accountants, legal counsel and other advisors (collectively "**Advisors**") on a "need to know basis" (provided that (i) the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and agree or otherwise have an obligation to keep such Information confidential and (ii) such Agent or Lender, as applicable, shall be responsible for the compliance of its Affiliates and such Affiliates' Advisors with this paragraph); (b) to the extent required or requested by, or upon the good faith determination by counsel that such information should be disclosed in light of ongoing oversight or review of such Person, by any Governmental Authority or self-regulatory authority having or asserting jurisdiction over such Person (including any Governmental Authority regulating any Lender or its Affiliates); provided that the Administrative Agent or such Lender, as applicable, agrees that it will notify the Borrower as soon as practicable in the event of any such disclosure by such Person (other than at the request of a regulatory authority) unless such notification is prohibited by law, rule or regulation; (c) to the extent required by applicable Laws or regulations or by any subpoena or similar legal process; provided that the Administrative Agent or such Lender, as applicable, agrees that it will notify the Borrower as soon as practicable in the event of any such disclosure by such Person (other than at the request of a regulatory authority) unless such notification is prohibited by law, rule or regulation; (d) to any other party to this Agreement; (e) to (i) any pledgee referred to in Section 10.07(g), (ii) subject to an agreement containing provisions at least as restrictive as those of this Section 10.08 (or as may otherwise be reasonably acceptable to the Borrower), any direct or indirect contractual counterparty to a Swap Contract, Eligible Assignee of or Participant in, or any prospective Eligible Assignee of or Participant in any of its rights or obligations under this Agreement (other than any Disqualified Institution or Person whom the Borrower has affirmatively denied to provide consent to assignment in accordance with Section 10.07(b)(i)(A)); or (iii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to the Borrower and its obligations, this Agreement or payments hereunder (other than any Disqualified Institution or Person whom the Borrower has affirmatively denied to provide consent to assignment in accordance with Section 10.07(b)(i)(A)); (f) with the prior written consent of the Borrower; (g) to the extent such Information becomes publicly available other than as a result of a breach of this Section 10.08 or other obligation of confidentiality owed to the Borrower, the Sponsor or their respective Affiliates or becomes available to the Administrative Agent, any Arranger, any Lender or any of their respective Affiliates on a non-confidential basis from a source other than a Loan Party or any Sponsor or their respective related parties (so long as such source is not known (after due inquiry) to the Administrative Agent, such Arranger, such Lender or any of their respective Affiliates to be bound by confidentiality obligations to any Loan Party, the Sponsor or its respective Affiliates); (h) to any rating agency when required by it (it being understood that, prior to any such disclosure, such rating agency shall undertake to preserve the confidentiality of any Information relating to Loan Parties and their Subsidiaries received by it from such Lender) or to the CUSIP Service Bureau or any similar organization; (i) 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 its rights hereunder or thereunder; (j) to the extent such information is independently developed by the Administrative Agent, any Arranger, any Lender or any of their respective Affiliates; or (k) for purposes of establishing a due diligence defense. In addition, the Agents and the Lenders may disclose the existence of this Agreement and publicly available information about this Agreement to market data collectors, similar service providers to the lending industry, and service providers to the Agents and the Lenders in connection with the administration, settlement and management of this Agreement, the other Loan Documents, the Commitments and the Loans. For the

purposes of this Section 10.08, “**Information**” means all information received from the Loan Parties relating to any Loan Party, its Affiliates or its Affiliates’ directors, officers, employees, trustees, investment advisors or agents, other than any such information that is publicly available to any Agent or any Lender prior to disclosure by any Loan Party other than as a result of a breach of this Section 10.08 or any other confidentiality obligation owed to any Loan Party or their Affiliates.

**SECTION 10.09 Setoff.** Subject to the terms, conditions and provisions of the Intercreditor Agreements, in addition to any rights and remedies of the Lenders provided by Law, upon the occurrence and during the continuance of any Event of Default, each Lender and its Affiliates (and the Administrative Agent, in respect of any unpaid fees, costs and expenses payable hereunder) is authorized at any time and from time to time, without prior notice to the Borrower, any such notice being waived by the Borrower (on its own behalf and on behalf of each Loan Party and each of its Subsidiaries) 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) (other than escrow, payroll, petty cash, trust and tax accounts) at any time held by, and other Indebtedness at any time owing by, such Lender and its Affiliates or the Administrative Agent to or for the credit or the account of the respective Loan Parties and their

Subsidiaries against any and all Obligations owing to such Lender and its Affiliates or the Administrative Agent hereunder or under any other Loan Document, now or hereafter existing, irrespective of whether or not such Agent or such Lender or Affiliate shall have made demand under this Agreement or any other Loan Document and although such Obligations may be contingent or unmatured; 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 2.17 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. Each Lender agrees promptly to notify the Borrower and the Administrative Agent after any such setoff and application made by such Lender; provided that the failure to give such notice shall not affect the validity of such setoff and application. The rights of the Administrative Agent and each Lender under this Section 10.09 are in addition to other rights and remedies (including other rights of setoff) that the Administrative Agent and such Lender may have at Law.

**SECTION 10.10 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 any 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 an 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.

**SECTION 10.11 Counterparts.** This Agreement and each other Loan Document may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery by facsimile or other electronic transmission of an executed counterpart of a signature page to this Agreement and each other Loan Document shall be effective as delivery of an original executed counterpart of this Agreement and such other Loan Document. The Agents may also require that any such documents and signatures delivered by facsimile

or other electronic transmission be confirmed by a manually signed original thereof; provided that the failure to request or deliver the same shall not limit the effectiveness of any document or signature delivered by facsimile or other electronic transmission.

**SECTION 10.12 Integration.** This Agreement, together with the other Loan Documents, comprises the complete and integrated agreement of the parties on the subject matter hereof and thereof and supersedes all prior agreements, written or oral, on such subject matter. Subject to Section 10.20, in the event of any conflict between the provisions of this Agreement and those of any other Loan Document, the provisions of this Agreement shall control; provided that the inclusion of supplemental rights or remedies in favor of the Agents or the Lenders in any other Loan Document shall not be deemed a conflict with this Agreement. Each Loan Document was drafted with the joint participation of the respective parties thereto and shall be construed neither against nor in favor of any party, but rather in accordance with the fair meaning thereof.

**SECTION 10.13 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 Borrowing, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid.

**SECTION 10.14 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; provided that the Lenders shall charge no fee in connection with any such amendment. 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 10.14, 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, then such provisions shall be deemed to be in effect only to the extent not so limited.

**SECTION 10.15 GOVERNING LAW.**

(a) THIS AGREEMENT AND EACH OTHER LOAN DOCUMENT AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON OR ARISING OUT OF THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) ANY LEGAL ACTION OR PROCEEDING ARISING UNDER ANY LOAN DOCUMENT OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO ANY LOAN DOCUMENT, OR THE TRANSACTIONS RELATED THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, SHALL BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY (BOROUGH OF MANHATTAN) OR OF THE

UNITED STATES FOR THE SOUTHERN DISTRICT OF SUCH STATE, OR ANY APPELLATE COURT FROM ANY THEREOF, AND BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH LOAN PARTY, EACH AGENT AND EACH LENDER CONSENTS, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THOSE COURTS AND AGREES THAT IT WILL NOT COMMENCE OR SUPPORT ANY SUCH ACTION OR PROCEEDING IN ANOTHER JURISDICTION. EACH LOAN PARTY, EACH AGENT AND EACH LENDER IRREVOCABLY WAIVES (TO THE EXTENT PERMITTED BY APPLICABLE LAW) ANY OBJECTION, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY ACTION OR PROCEEDING IN SUCH JURISDICTION IN RESPECT OF ANY LOAN DOCUMENT OR OTHER DOCUMENT RELATED THERETO. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENTS IN THE MANNER PROVIDED FOR NOTICES (OTHER THAN FACSIMILE) IN SECTION 10.02. NOTHING IN THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

**SECTION 10.16 WAIVER OF RIGHT TO TRIAL BY JURY. 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.**

**SECTION 10.17 Binding Effect.** This Agreement shall become effective when it shall have been executed and delivered by the Loan Parties and each other party hereto and the Administrative Agent shall have been notified by each Lender that each such Lender has executed it and thereafter shall be binding upon and inure to the benefit of the Loan Parties, each Agent and each Lender and their respective successors and assigns, in each case in accordance with Section 10.07 (if applicable) and except that no Loan Party shall have the right to assign its rights hereunder or any interest herein without the prior written consent of the Lenders except as permitted by Section 7.04.

**SECTION 10.18 USA Patriot Act.** Each Lender that is subject to the USA Patriot Act 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, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name, address and tax identification number of such Loan Party and other information regarding such Loan Party that will allow such Lender or the Administrative Agent, as applicable, to identify such Loan Party in accordance with the USA Patriot Act. This notice is given in accordance with the requirements of the USA Patriot Act and is effective as to the Lenders and the Administrative Agent. The Borrower shall, promptly following a reasonable request by the Administrative Agent or any Lender, provide all documentation and other

information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable “know your customer” and anti-money laundering rules and regulations, including the USA Patriot Act.

**SECTION 10.19 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), each Loan Party acknowledges and agrees, and acknowledges its Affiliates’ understanding, that: (i) (A) the arranging and other services regarding this Agreement provided by the Administrative Agent and the other Arrangers are arm’s-length commercial transactions between the Loan Parties and their respective Affiliates, on the one hand, and the Administrative Agent, the other Arrangers and the Lenders, on the other hand, (B) each Loan Party has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) each Loan Party 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) the Administrative Agent, each other Arranger and each Lender each 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 each Loan Party or any of their respective Affiliates, or any other Person and (B) neither the Administrative Agent, any other Arranger nor any Lender has any obligation to the Loan Parties or any of their respective Affiliates 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, the other Arrangers, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Loan Parties and their respective Affiliates, and neither the Administrative Agent nor any other Arranger nor any Lender has any obligation to disclose any of such interests to the Loan Parties or any of their respective Affiliates. To the fullest extent permitted by law, each Loan Party hereby waives and releases any claims that it may have against the Administrative Agent, the other Arrangers and the Lenders with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

**SECTION 10.20 Intercreditor Agreements.** Each Lender hereunder (a) acknowledges that it has received a copy of the Intercreditor Agreements, (b) agrees that it will be bound by and will take no actions contrary to the provisions of the Intercreditor Agreements, (c) authorizes and instructs the Administrative Agent to enter into the Intercreditor Agreements as Administrative Agent and on behalf of such Lender and (d) hereby consents to the subordination of the Liens securing the Obligations on the terms set forth in the Closing Date Intercreditor Agreement. The foregoing provisions are intended as an inducement to the lenders under the First Lien Loan Documents and the Loan Documents to extend credit to the Loan Parties and such lenders are intended third party beneficiaries of such provisions. In the event of any conflict or inconsistency between the provisions of any Intercreditor Agreement and this Agreement, the provisions of such Intercreditor Agreement shall control.

**SECTION 10.21 Acknowledgement and Consent to Bail-in of EEA Financial Institutions.** Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

- (b) the effects of any Bail-in Action on any such liability, including, if applicable:
- (i) a reduction in full or in part or cancellation of any such liability;
  - (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or
  - (iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

**ARTICLE 11**  
**GUARANTEE**

**SECTION 11.01 The Guarantee.** Each Guarantor hereby jointly and severally with the other Guarantors guarantees, as a primary obligor and not as a surety to each Secured Party and their respective permitted successors and assigns, the prompt payment in full when due (whether at stated maturity, by required prepayment, declaration, demand, by acceleration or otherwise) of the principal of and interest (including any interest, fees, costs or charges that would accrue but for the provisions of (i) the Title 11 of the United States Code after any bankruptcy or insolvency petition under Title 11 of the United States Code and (ii) any other Debtor Relief Laws) on the Loans made by the Lenders to, and the Notes held by each Lender of, the Borrower, and all other Secured Obligations from time to time owing to the Secured Parties by any Loan Party under any Loan Document, in each case strictly in accordance with the terms thereof (such obligations being herein collectively called the “**Guaranteed Obligations**”). The Guarantors hereby jointly and severally agree that if the Borrower or other Guarantor(s) shall fail to pay in full when due (whether at stated maturity, by acceleration or otherwise) any of the Guaranteed Obligations, the Guarantors will promptly pay the same in cash, without any demand or notice whatsoever, and that in the case of any extension of time of payment or renewal of any of the Guaranteed Obligations, the same will be promptly paid in full when due (whether at extended maturity, by acceleration or otherwise) in accordance with the terms of such extension or renewal.

**SECTION 11.02 Obligations Unconditional.** The obligations of the Guarantors under Section 11.01 shall constitute a guaranty of payment and to the fullest extent permitted by applicable Law, are absolute, irrevocable and unconditional, joint and several, irrespective of the value, genuineness, validity, regularity or enforceability of the Guaranteed Obligations of the Borrower under this Agreement, the Notes, if any, or any other agreement or instrument referred to herein or therein, or any substitution, release or exchange of any other guarantee of or security for any of the Guaranteed Obligations, and, irrespective of any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a surety or Guarantor (except for payment in full). Without limiting the generality of the foregoing, it is agreed that the occurrence of any one or more of the following shall not alter or impair the liability of the Guarantors hereunder which shall remain absolute, irrevocable and unconditional under any and all circumstances as described above:

(i) at any time or from time to time, without notice to the Guarantors, to the extent permitted by Law, the time for any performance of or compliance with any of the Guaranteed Obligations shall be extended, or such performance or compliance shall be waived;

(ii) any of the acts mentioned in any of the provisions of this Agreement or the Notes, if any, or any other agreement or instrument referred to herein or therein shall be done or omitted (including incurring any increase or decrease in the principal amount of the Guaranteed Obligations or the rate of interest or the fees thereon);

(iii) the maturity of any of the Guaranteed Obligations shall be accelerated, or any of the Guaranteed Obligations shall be amended in any respect, or any right under the Loan Documents or any other agreement or instrument referred to herein or therein shall be amended or waived in any respect or any other guarantee of any of the Guaranteed Obligations or except as permitted pursuant to Section 11.09, any security therefor shall be released or exchanged in whole or in part or otherwise dealt with;

(iv) any Lien or security interest granted to, or in favor of, any Lender or Agent as security for any of the Guaranteed Obligations shall fail to be perfected; or

(v) the release of any other Guarantor pursuant to Section 11.09.

The Guarantors hereby expressly waive (to the fullest extent permitted by Law) diligence, presentment, demand of payment, protest and, to the extent permitted by Law, all notices whatsoever, and any requirement that any Secured Party exhaust any right, power or remedy or proceed against the Borrower under this Agreement or the Notes, if any, or any other agreement or instrument referred to herein or therein, or against any other person under any other guarantee of, or security for, any of the Guaranteed Obligations. The Guarantors waive, to the extent permitted by Law, any and all notice of the creation, renewal, extension, waiver, termination or accrual of any of the Guaranteed Obligations and notice of or proof of reliance by any Secured Party upon this Guarantee or acceptance of this Guarantee, and the Guaranteed Obligations, and any of them, shall conclusively be deemed to have been created, contracted or incurred in reliance upon this Guarantee, and all dealings between the Borrower and the Secured Parties shall likewise be conclusively presumed to have been had or consummated in reliance upon this Guarantee. This Guarantee shall be construed as a continuing, absolute, irrevocable and unconditional guarantee of payment without regard to any right of offset with respect to the Guaranteed Obligations at any time or from time to time held by Secured Parties, and the obligations and liabilities of the Guarantors hereunder shall not be conditioned or contingent upon the pursuit by the Secured Parties or any other person at any time of any right or remedy against the Borrower or against any other person which may be or become liable in respect of all or any part of the Guaranteed Obligations or against any collateral security or guarantee therefor or right of offset with respect thereto. This Guarantee shall remain in full force and effect and be binding in accordance with and to the extent of its terms upon the Guarantors and the successors and assigns thereof, and shall inure to the benefit of the Lenders, and their respective successors and assigns, notwithstanding that from time to time during the term of this Agreement there may be no Guaranteed Obligations outstanding.

**SECTION 11.03 Reinstatement.** The obligations of the Guarantors under this Article 11 shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of the Borrower or other Loan Party in respect of the Guaranteed Obligations is rescinded or must be otherwise restored by any holder of any of the Guaranteed Obligations, whether as a result of any proceedings in bankruptcy or reorganization or otherwise.

**SECTION 11.04 Subrogation; Subordination.** Each Guarantor hereby agrees that until the payment in full in cash and satisfaction in full of all Guaranteed Obligations (other than contingent obligations not yet due and owing) and the expiration and termination of the Commitments of the Lenders under this Agreement it shall subordinate any claim and shall not exercise any right or remedy, direct or indirect, arising by reason of any performance by it of its guarantee in Section 11.01, whether by subrogation or otherwise, against the Borrower or any other Guarantor of any of the Guaranteed Obligations or any security for any of the Guaranteed Obligations.

**SECTION 11.05 Remedies.** The Guarantors jointly and severally agree that, as between the Guarantors and the Lenders, the obligations of the Borrower under this Agreement and the Notes, if any, may be declared to be forthwith due and payable as provided in Section 8.02 (and shall be deemed to have become automatically due and payable in the circumstances provided in Section 8.02) for purposes of Section 11.01, notwithstanding any stay, injunction or other prohibition preventing such declaration (or such obligations from becoming automatically due and payable) as against the Borrower and that, in the event of such declaration (or such obligations being deemed to have become automatically due and payable), such obligations (whether or not due and payable by the Borrower) shall forthwith become due

and payable by the Guarantors for purposes of Section 11.01.

**SECTION 11.06 [Reserved].**

**SECTION 11.07 Continuing Guarantee.** The guarantee in this Article 11 is a continuing guarantee of payment, and shall apply to all Guaranteed Obligations whenever arising.

**SECTION 11.08 General Limitation on Guarantee Obligations.** In any action or proceeding involving any state corporate limited partnership or limited liability company law, or any applicable state, federal or foreign bankruptcy, insolvency, reorganization or other Law affecting the rights of creditors generally, if the obligations of any Guarantor under Section 11.01 would otherwise be held or determined to be void, voidable, invalid or unenforceable, or subordinated to the claims of any other creditors, on account of the amount of its liability under Section 11.09, then, notwithstanding any other provision to the contrary, the amount of such liability shall, without any further action by such Guarantor, any Loan Party or any other Person, be automatically limited and reduced to the highest amount (after giving effect to any guarantee of the First Lien Secured Obligations and the liability under this Guaranty and the right of contribution established in Section 11.10, but before giving effect to any other guarantee) that is valid and enforceable and not subordinated to the claims of other creditors as determined in such action or proceeding.

**SECTION 11.09 Release of Guarantors.** If, in compliance with the terms and provisions of the Loan Documents, (i) all or substantially all of the Equity Interests of any Subsidiary Guarantor are sold or otherwise transferred to a Person or Persons none of which is a Loan Party in a transaction permitted hereunder or (ii) any Subsidiary Guarantor ceases to be a Restricted Subsidiary or becomes an Excluded Subsidiary as a result of a transaction or designation permitted hereunder (any such Subsidiary Guarantor, and any Subsidiary Guarantor referred to in clause (i), a “**Transferred Guarantor**”), such Transferred Guarantor shall, upon the consummation of such sale or transfer or other transaction (but subject to the proviso below), be automatically released from its obligations under this Agreement (including under Section 10.05 hereof) and the other Loan Documents, including its obligations to pledge and grant any Collateral owned by it pursuant to any Collateral Document and, in the case of a sale of all or substantially all of the Equity Interests of the Transferred Guarantor, the pledge of such Equity Interests to the Administrative Agent pursuant to the Collateral Documents shall be automatically released, and, so long as the Borrower shall have provided the Agents such certifications or documents as any Agent shall reasonably request, the Administrative Agent shall take such actions as are necessary to effect each release described in this Section 11.09 in accordance with the relevant provisions of the Collateral Documents; provided, however, that the release of any Subsidiary Guarantor from its obligations under this Agreement if such Subsidiary Guarantor becomes an Excluded Subsidiary of the type described in clause (a) of the definition thereof shall only be permitted if at the time such Guarantor becomes an Excluded Subsidiary of such type (1) no Default or Event of Default shall have occurred and be outstanding, (2) after giving *pro forma* effect to such release and the consummation of the transaction that causes such Person to be an Excluded Subsidiary of such type, the Borrower is deemed to have made a new Investment in such Person for purposes of Section 7.02 (as if such Person were then newly acquired) and such Investment is permitted pursuant to Section 7.02 (other than Section 7.02(f)) at such time and (3) a Responsible Officer of the Borrower certifies to the Administrative Agent compliance with preceding clauses (1) and (2); provided, further, that no such release shall occur if such Subsidiary Guarantor continues to be a guarantor in respect of the First Lien Secured Obligations, any Second Lien Incremental Equivalent Debt, any Credit Agreement Refinancing Indebtedness, any Permitted Ratio Debt, any Incremental Equivalent Debt, any Junior Financing or any Permitted Refinancing in respect of any of the foregoing. Notwithstanding anything to the contrary contained herein, a Guarantor shall be automatically released from its obligations under all of the Loan Documents upon its release under the First Lien Loan Documents (other than in connection with the Discharge of First Lien Credit Agreement

Obligations) to the extent required pursuant to the terms of the Closing Date Intercreditor Agreement.

When all Commitments hereunder have terminated, and all Loans or other Obligations hereunder which are accrued and payable have been paid or satisfied (other than contingent obligations as to which no claim has been asserted), this Agreement and the Guarantees made herein shall terminate with respect to all Obligations, except with respect to Obligations that expressly survive such repayment pursuant to the terms of this Agreement.

**SECTION 11.10 Right of Contribution.** Each Guarantor hereby agrees that to the extent that a Guarantor shall have paid more than its proportionate share of any payment made hereunder, such Guarantor shall be entitled to seek and receive contribution from and against any other Guarantor hereunder which has not paid its proportionate share of such payment. Each Guarantor's right of contribution shall be subject to the terms and conditions of Section 11.04. The provisions of this Section 11.10 shall in no respect limit the obligations and liabilities of any Guarantor to the Administrative Agent and the Lenders, and each Guarantor shall remain liable to the Administrative Agent and the Lenders for the full amount guaranteed by such Guarantor hereunder.

**SECTION 11.11 Independent Obligation.** The obligations of each Guarantor hereunder are independent of the obligations of any other Guarantor, any other party or any Borrower, and a separate action or actions may be brought and prosecuted against such Guarantor whether or not action is brought against any other guarantor, any other party or any Borrower and whether or not any other guarantor, any other party or any Borrower be joined in any such action or actions. Each Guarantor waives, to the fullest extent permitted by law, the benefit of any statute of limitations affecting its liability hereunder or the enforcement thereof. Any payment by the Borrower or other circumstance which operates to toll any statute of limitations as to the Borrower shall operate to toll the statute of limitations as to the Guarantors.

[Signature Pages Follow]

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

EMERGING MARKETS COMMUNICATIONS, LLC as  
Borrower

EMC ACQUISITION, LLC

SCISCO PARENT, INC.

SEAMOBILE, INC.

MARITEL HOLDINGS, INC.

MARITIME TELECOMMUNICATIONS NETWORK,  
INC.

MTN GOVERNMENT SERVICES, INC.

MTN LICENSE CORP.

MTN INTERNATIONAL, INC.

By: /s/ Abel Avellan

Name: Abel Avellan

Title: Chief Executive Officer

EMC-JV HOLDCO LLC

By: /s/ James Scola

Name: James Scola

Title: Assistant Secretary

MORGAN STANLEY SENIOR FUNDING, INC., as  
Administrative Agent

By: /s/ Andrew Earls

\_\_\_\_\_  
Name: Andrew Earls

Title: Authorized Signatory

MORGAN STANLEY SENIOR  
FUNDING, INC.,  
as a Lender

By: /s/ Reagan Philipp

Name: Reagan Philipp

Title: Authorized Signatory

## AMENDMENT NO. 1 TO SECOND LIEN CREDIT AGREEMENT

THIS AMENDMENT NO. 1 TO SECOND LIEN CREDIT AGREEMENT, dated as of May 9, 2016 (this “Agreement”), is made by and among (i) EMERGING MARKETS COMMUNICATIONS, LLC, a Delaware limited liability company (the “Borrower”), (ii) EMC ACQUISITION, LLC, a Delaware limited liability company (“Holdings”), and the other Guarantors party hereto, (iii) the Lenders party hereto, and (iv) MORGAN STANLEY SENIOR FUNDING, INC., as administrative agent (in such capacity, the “Administrative Agent”).

### WITNESSETH:

WHEREAS, the Borrower, the other Loan Parties, Morgan Stanley Senior Funding, Inc., as Administrative Agent, and the Lenders party thereto from time to time have heretofore entered into that certain Second Lien Credit Agreement, dated as of July 1, 2015 (as amended, supplemented or otherwise modified prior to the date hereof, the “Existing Credit Agreement”). All capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Credit Agreement referred to below unless the context otherwise requires;

WHEREAS, Global Eagle Entertainment Inc., a Delaware corporation (“Global Eagle”), intends to acquire (the “EMC Acquisition”) 100% of the issued and outstanding membership interests of EMC Intermediate, LLC, a Delaware limited liability company and direct parent of Holdings (the “Acquired Company”), pursuant to the Acquisition Agreement (as defined below);

WHEREAS, the Borrower has requested that the Required Lenders consent to certain amendments to the Existing Credit Agreement in connection therewith (the Existing Credit Agreement as so amended as contemplated hereby, the “Credit Agreement”); and

WHEREAS, the Required Lenders are willing, on the terms and subject to the conditions set forth below, to consent to such amendments to the Existing Credit Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein contained, the Loan Parties, the Administrative Agent and the Lenders party hereto (the “Consenting Lenders”) hereby agree as follows:

### ARTICLE I

#### AMENDMENT OF EXISTING LOAN DOCUMENTS

SECTION 1.1 Subject solely to the satisfaction of the condition set forth in Section 3.1 hereof, the Existing Credit Agreement is hereby amended as follows:

(a) The definition of “Lender-Related Distress Event” in Section 1.01 of the Existing Credit Agreement is hereby deleted in its entirety and replaced with the following:

““**Lender-Related Distress Event**” shall mean, with respect to any Lender or any other Person that directly or indirectly controls such Lender (each, a “**Distressed Person**”), (i) a voluntary or involuntary case with respect to such Distressed Person under any debt relief law, (ii) a custodian, conservator, receiver, or similar official is appointed for such Distressed Person or any substantial part of such Distressed Person’s assets, (iii) such Distressed Person, or any Person that directly or indirectly controls such Distressed Person, is subject to a forced liquidation, (iv) such Distressed Person makes a general assignment for the benefit of creditors or is

otherwise adjudicated as, or determined by any governmental authority having regulatory authority over such Distressed Person to be, insolvent or bankrupt or (v) such Distressed Person becomes the subject of a Bail-in Action; provided that a Lender-Related Distress Event shall not be deemed to have occurred solely by virtue of the ownership or acquisition of any equity interests in any Lender or any Person that directly or indirectly controls such Lender by a governmental authority or an instrumentality thereof.”

(b) The following definitions are added to Section 1.01 of the Existing Credit Agreement in alphabetical order:

“**Bail-In Action**” means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

“**Bail-In Legislation**” means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

“**EEA Financial Institution**” means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent;

“**EEA Member Country**” means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

“**EEA Resolution Authority**” means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

“**EU Bail-In Legislation Schedule**” means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

“**Write-Down and Conversion Powers**” means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.”

(c) Section 10.21 is hereby deleted in its entirety and replaced with the following:

“**SECTION 10.21 Acknowledgement and Consent to Bail-in of EEA Financial Institutions.** Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and

conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

- (c) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and
- (d) the effects of any Bail-in Action on any such liability, including, if applicable:
  - (i) a reduction in full or in part or cancellation of any such liability;
  - (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or
  - (iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.”

SECTION 1.2 Each of the parties hereto agrees that, subject solely to the satisfaction of each of the conditions set forth in Article II hereof (as limited therein), effective only upon the occurrence of the Amendment Effective Date, the Existing Credit Agreement shall be amended to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double-underlined text) as set forth in the pages of the Credit Agreement attached as Annex I hereto.

SECTION 1.3 Each of the parties hereto agrees that, subject solely to the satisfaction of each of the conditions set forth in Article II hereof (as limited therein), effective only upon the occurrence of the Amendment Effective Date, Exhibit D-1 to the Credit Agreement (Compliance Certificate) shall be amended to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double-underlined text) as set forth in the pages of Exhibit D-1 to the Credit Agreement (Compliance Certificate) attached as Annex II hereto.

SECTION 1.4 Each of the parties hereto agrees that, subject solely to the satisfaction of each of the conditions set forth in Article II hereof (as limited therein), effective only upon the occurrence of the Amendment Effective Date, Schedule 7.02(f) to the Credit Agreement (Investments) and Schedule 10.02(a) to the Credit Agreement (Administrative Agent’s Office, Certain Addresses for Notices) shall be replaced in their entirety by Schedule 7.02(f) to the Credit Agreement (Investments) and Schedule 10.02(a) to the Credit Agreement (Administrative Agent’s Office, Certain Addresses for Notices) attached as Annex III hereto.

## ARTICLE II

### CONDITIONS TO EFFECTIVENESS

This Agreement shall be binding on the parties hereto and effective (other than with respect to Section 1.2, Section 1.3 and Section 1.4 of this Agreement, which shall be effective only as provided in the immediately following sentence) on the date the condition contained in Section 2.1 of this Agreement (and no others) have been satisfied. The amendments contained in Section 1.2, Section 1.3, and Section 1.4 of this Agreement shall be effective on the date each of the conditions contained in this Article II (and no others) have been satisfied (the "Amendment Effective Date").

SECTION 2.1 Execution of Counterparts. The Administrative Agent shall have received counterparts of this Agreement duly executed and delivered by (i) the Loan Parties, (ii) the Administrative Agent, and (iii) Lenders constituting the Required Lenders (the date on which such counterparts are received, the "Execution Date").

SECTION 2.2 Consummation of the EMC Acquisition. The EMC Acquisition shall have been consummated, or substantially concurrently with the satisfaction or waiver of the other conditions set forth herein, shall be consummated, in accordance in all material respects with the terms of the Interest Purchase Agreement, dated as of the date hereof (together with all schedules and exhibits thereto, collectively, as amended, the "Acquisition Agreement"), by and between Global Eagle and EMC Acquisition Holdings, LLC, a Delaware limited liability company, without giving effect to any modifications, amendments, consents or waivers thereto, that are materially adverse to the interests of the Administrative Agent or the Lenders in their capacities as such, unless made with the prior consent of the Administrative Agent (not to be unreasonably withheld, delayed or conditioned).

SECTION 2.3 No Company Material Adverse Change. Since May 9, 2016, there has not been any Company Material Adverse Change (as defined in the Acquisition Agreement as in effect on the date hereof).

SECTION 2.4 Refinancing. All obligations under that certain Loan and Security Agreement, dated as of December 22, 2014 (as amended from time to time), by and among Global Eagle Entertainment Inc., the guarantors party thereto, and Citibank, N.A., shall have been paid in full and all commitments thereunder terminated and all security interests and guaranties in connection therewith shall have been terminated or released (or customary arrangements for such termination or release shall have been made). Global Eagle and its Subsidiaries shall have no material outstanding indebtedness for borrowed money other than the Indebtedness under the Credit Agreement, indebtedness under the First Lien Credit Agreement and other Indebtedness permitted under the Credit Agreement (including the Convertible Notes (as defined in the Credit Agreement)).

SECTION 2.5 Financial Statements. The Administrative Agent shall have received unaudited consolidated balance sheets and related consolidated statements of income and cash flows of Global Eagle and its subsidiaries for each fiscal quarter of Global Eagle (other than the last fiscal quarter of a year) subsequent to December 31, 2015 and ending at least 45 days before the Amendment Effective Date.

SECTION 2.6 Joinder and other Loan Documentation. Each of Global Eagle, the Acquired Company and each Subsidiary of Global Eagle to the extent such Subsidiary is required to become a Guarantor pursuant to the Collateral and Guarantee Requirement (as defined in the Credit Agreement in the form attached hereto as Annex I, the "Amended Collateral and Guarantee Requirement") (each such Subsidiary collectively with Global Eagle and the Acquired Company, the "Global Eagle Loan Parties" and each a "Global Eagle Loan Party") shall (a) have duly executed and delivered to the Administrative Agent a Joinder

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<sup>1</sup>To be conformed to the Acquisition Agreement upon satisfactory review of the updated draft Acquisition Agreement.

Agreement to become a Guarantor under the Credit Agreement, Security Agreement Supplements, Intellectual Property Security Agreements, acknowledgements to the Closing Date Intercreditor Agreement and other security agreements and documents as reasonably requested by and in form and substance reasonably satisfactory to the Administrative Agent, in each case granting Liens required by the Amended Collateral and Guarantee Requirement, (b) subject to the Closing Date Intercreditor Agreement, have delivered any and all certificates representing Equity Interests (to the extent certificated) and intercompany notes constituting negotiable instruments (to the extent certificated) that are required to be pledged pursuant to the Amended Collateral and Guarantee Requirement, accompanied by undated stock powers or other appropriate instruments of transfer executed in blank and instruments evidencing Indebtedness held by such Global Eagle Loan Party, and required to be delivered pursuant to the Amended Collateral and Guarantee Requirement indorsed in blank to the Administrative Agent, and (c) have taken (and, to the extent applicable, caused its direct or indirect parent to have taken) whatever action (including, without limitation, the filing of UCC financing statements and delivery of stock and membership interest certificates) as may be necessary in the reasonable opinion of the Administrative Agent to vest in the Administrative Agent (or in any representative of the Administrative Agent designated by it) valid and perfected Liens to the extent required by the Amended Collateral and Guarantee Requirement, and to otherwise comply with the requirements of the Amended Collateral and Guarantee Requirement (the documentation to be delivered and/or executed pursuant to clauses (a) through (c) above collectively, the “Joinder Documentation”); provided that notwithstanding the foregoing, delivery of the documents and instruments necessary to satisfy the requirements of this sentence and the Amended Collateral and Guarantee Requirement (except for (x) the execution and delivery of Joinder Agreements to become a Guarantor under the Credit Agreement, Security Agreement Supplements, Intellectual Property Security Agreements and acknowledgements to the Closing Date Intercreditor Agreement, (y) the filing of financing statements under the Uniform Commercial Code in respect of the Global Eagle Loan Parties, and (z) subject to the Closing Date Intercreditor Agreement, the delivery of certificated equity securities of Global Eagle’s wholly-owned Subsidiaries (provided such certificated equity securities, other than the certificated equity securities of any of Global Eagle’s wholly-owned Material Subsidiaries, will only be required to be delivered on the Amendment Effective Date to the extent that such certificated equity securities are received by the Borrower from Global Eagle)) shall not constitute conditions precedent to the Amendment Effective Date after the Borrower’s use of commercially reasonable efforts to provide such items on or prior to the Amendment Effective Date without undue burden or expense so long as such documents and instruments are delivered within (x) subject to the Closing Date Intercreditor Agreement, with respect to any required delivery of certificated equity securities, intercompany notes or instruments evidencing Indebtedness, 45 days after the Amendment Effective Date (subject to extensions approved by the Administrative Agent in its reasonable discretion) and (y) with respect to any other required documents and instruments or actions, 90 days after the Amendment Effective Date (subject to extensions approved by the Administrative Agent in its reasonable discretion). The Administrative Agent shall have received customary legal opinions with respect to the Joinder Documentation, customary officer’s closing certificates, organizational documents, customary evidence of authorization and good standing certificates in jurisdictions of formation/organization, in each case of the Loan Parties (to the extent applicable), and a solvency certificate substantially in the form of Exhibit D-2 to the Credit Agreement signed by the chief financial officer of Global Eagle as of the Amendment Effective Date and after giving effect to the EMC Acquisition, this Agreement, the refinancing described in Section 2.4 above and the execution and delivery of the Joinder Documentation with respect to Global Eagle and its restricted subsidiaries, on a consolidated basis.

SECTION 2.7 Amendments to other Loan Documents. The Administrative Agent shall have received Amendment No. 1 to Closing Date Intercreditor Agreement and Amendment No. 1 to Second Lien Security Agreement, in each case in the form as attached hereto as Annex IV and Annex V, respectively, and executed by the parties thereto.

SECTION 2.8 Representations and Warranties. The Specified Representations (as defined below) and the Specified Acquisition Agreement Representations (as defined below) shall be true and correct in all material respects on the Amendment Effective Date (unless such representations relate to an earlier date, in which case, such representations shall have been true and correct in all material respects as of such earlier date), except for representations and warranties that are already qualified by materiality, which representations and warranties shall be true and correct in all respects. For purposes hereof, (a) “Specified Acquisition Agreement Representations” shall mean such of the representations and warranties made with respect to EMC Intermediate, LLC and its Subsidiaries in the Acquisition Agreement as are material to the interests of the Lenders, but only to the extent that Global Eagle has the right not to consummate the transactions contemplated by the Acquisition Agreement or to terminate its obligations under the Acquisition Agreement as a result of a breach or inaccuracy of such representations or warranties in the Acquisition Agreement (determined without regard to any notice requirement or lapse of time or both); and (b) “Specified Representations” shall mean, the representations and warranties set forth in Sections 5.01(a) (in the case of the Borrower and the Guarantors only), 5.01(b) (in the case of the Borrower and the Guarantors only), 5.02(a), 5.02(b)(i), 5.02(b)(ii), 5.04, 5.12, 5.16, 5.18 and, subject to proviso in the first sentence of Section 2.6 of this Agreement, Section 5.19 of the Credit Agreement, in each case in the form attached hereto as Annex I.

SECTION 2.9 Fees and Expenses. The Borrower shall have paid (or shall have caused to have been paid) (i) to the Administrative Agent all expenses payable pursuant to Section 10.04 of the Credit Agreement which have accrued to the Amendment Effective Date to the extent invoices therefor have been provided at least two Business Days prior to the Amendment Effective Date and (ii) to the Administrative Agent, for the account of each Lender that has executed and delivered a counterpart signature page to this Agreement at or prior to the Amendment Effective Date, a consent fee (the “Amendment Consent Fee”) in an amount equal to 1.00% of the aggregate Term Loans of such Lender as of the date hereof. The Amendment Consent Fee shall be payable in immediately available funds and, once paid, such fee or any part thereof shall not be refundable.

SECTION 2.10 PATRIOT Act. The Administrative Agent shall have received, no later than three Business Days prior to the Amendment Effective Date, all documentation and other information about the Global Eagle Loan Parties as has been reasonably requested in writing by the Administrative Agent at least seven calendar days prior to the Amendment Effective Date and that has been determined by the Administrative Agent to be required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including without limitation the PATRIOT Act.

SECTION 2.11 Termination Date. The Amendment Effective Date shall have occurred on or before November 5, 2016.

SECTION 2.12 No Default. No Default or Event of Default (each as defined in the Credit Agreement in the form attached hereto as Annex I) shall have occurred and be continuing as of the Execution Date. No Event of Default under Section 8.01(a) or (f) of the Credit Agreement shall have occurred and be continuing as of the Amendment Effective Date.

### ARTICLE III

#### REPRESENTATIONS AND WARRANTIES

SECTION 3.1 Representations and Warranties. In order to induce the Consenting Lenders and the Administrative Agent to enter into this Agreement, the Loan Parties hereby represent and warrant to the Administrative Agent and each Lender, as of the date hereof, as follows:

(a) this Agreement has been duly authorized, executed and delivered by each Loan Party and constitutes a legal, valid and binding obligation of each such Loan Party, enforceable against it in accordance with its terms, except to the extent the enforceability hereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law);

(b) the execution, delivery and performance by the Loan Parties of this Agreement will 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 under (other than as permitted by Section 7.01 of the Existing Credit Agreement), or require any payment to be made under (x) any Contractual Obligation to which such Person is a party or by which it or any of its property or assets is bound or (y) any material 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 or contravention or payment (but not creation of Liens) referred to in clauses (ii) and (iii), to the extent that such violation, conflict, breach, contravention or payment could not reasonably be expected to have a Material Adverse Effect; and

(c) each of the representations and warranties contained in Article 5 of the Credit Agreement and in each of the other Loan Documents is true and correct in all material respects as of the date hereof, except to the extent such representations and warranties specifically relate to an earlier date, in which case such representations and warranties are true and correct in all material respects on and as of such earlier date; provided, that any representation and warranty that is qualified as to "materiality," "Material Adverse Effect" or similar language shall be true and correct (after giving effect to any qualification therein) in all respects on such respective dates.

SECTION 3.2 Non-Impairment, etc. After giving effect to this Agreement, neither the modification of the Existing Credit Agreement nor the execution, delivery, performance or effectiveness of this Agreement or any other Loan Document impairs the validity, effectiveness or priority of the Liens granted pursuant to the Collateral Documents, and such Liens continue unimpaired with the same priority to secure repayment of all Obligations, whether heretofore or hereafter incurred.

SECTION 3.3 Reaffirmation of Obligations. Each of the Loan Parties hereby consents to this Agreement and hereby (a) restates, ratifies and reaffirms all terms and conditions set forth in the Existing Credit Agreement and the Loan Documents effective as of the date hereof and the Amendment Effective Date and as amended hereby and hereby reaffirms its obligations (including the Obligations) under each Loan Document to which it is a party, (b) confirms and agrees that the Liens on the Collateral granted by it pursuant to the Collateral Documents to which it is a party shall continue in full force and effect, and (c) acknowledges and agrees that such Liens on the Collateral granted by it pursuant to such Collateral Documents shall continue to secure the Obligations, as amended or otherwise affected hereby.

#### ARTICLE IV

#### MISCELLANEOUS

SECTION 4.1 Consent to Amendments and New Loan Documents; Further Assurances. Each Consenting Lender hereby authorizes the Borrower, each other Loan Party and the Administrative Agent to

enter into the Amendment No. 1 to Closing Date Intercreditor Agreement and Amendment No. 1 to Second Lien Security Agreement, in each case in the form as attached hereto as Annex IV and Annex V.

SECTION 4.2 Non-Reliance on the Administrative Agent. Each Consenting Lender represents to the Administrative Agent that it has, independently and without reliance upon the Administrative Agent or any Lender, and based on such documents and information as it has deemed appropriate, made its own credit analysis, appraisal of and investigation into the business, operations, property, financial and other condition and creditworthiness of Global Eagle, the Loan Parties and their Affiliates and made its own decisions to enter into this Agreement. Each Consenting Lender also represents that it will, independently and without reliance upon the Administrative Agent or any Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement, the Credit Agreement and the other Loan Documents, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of Global Eagle, the Loan Parties and their Affiliates.

SECTION 4.3 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby, each Loan Party acknowledges and agrees, and that: (i) (A) the arranging and other services regarding this Agreement provided by the Administrative Agent are arm's-length commercial transactions between the Loan Parties and their respective Affiliates, on the one hand, and the Administrative Agent and the Lenders, on the other hand, (B) each Loan Party has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) each Loan Party is responsible for evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the Credit Agreement and the other Loan Documents; (ii) (A) the Administrative Agent and each Lender 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 each Loan Party or any of their respective Affiliates, or any other Person and (B) neither the Administrative Agent nor any Lender has any obligation to the Loan Parties or any of their respective Affiliates 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, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Loan Parties and their respective Affiliates, and neither the Administrative Agent nor any Lender has any obligation to disclose any of such interests to the Loan Parties or any of their respective Affiliates. To the fullest extent permitted by law, each Loan Party hereby waives and releases any claims that it may have against the Administrative Agent and the Lenders with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

SECTION 4.4 Costs and Expenses. The Borrower agrees to reimburse the Administrative Agent for its reasonable and documented out-of-pocket costs and expenses in connection with this Agreement.

SECTION 4.5 Full Force and Effect; Amendment and Restatement. Except as expressly provided herein, this Agreement shall not by implication or otherwise limit, impair, constitute a waiver of, or otherwise affect the rights and remedies of the Administrative Agent or the Lenders under the Existing Credit Agreement or any other Loan Document, and shall not alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the Existing Credit Agreement or any other Loan Document, all of which are ratified and affirmed in all respects and shall continue in full force and effect. Nothing herein shall be deemed to entitle any Loan Party to a consent to, or a waiver, amendment, modification or other change of, any of the terms, conditions, obligations, covenants or agreements contained in the Existing Credit Agreement or any other Loan Document in similar or different circumstances.

SECTION 4.6 Loan Document Pursuant to Existing Credit Agreement. **THIS AGREEMENT IS A LOAN DOCUMENT EXECUTED PURSUANT TO THE EXISTING CREDIT AGREEMENT AND SHALL BE CONSTRUED, ADMINISTERED AND APPLIED IN ACCORDANCE WITH ALL OF THE TERMS AND PROVISIONS OF THE EXISTING CREDIT AGREEMENT, INCLUDING, WITHOUT LIMITATION, THE PROVISIONS RELATING TO FORUM SELECTION, CONSENT TO JURISDICTION AND WAIVER OF JURY TRIAL INCLUDED IN SECTION 10.16 OF THE EXISTING CREDIT AGREEMENT, WHICH PROVISIONS ARE HEREBY ACKNOWLEDGED AND CONFIRMED BY EACH OF THE PARTIES HERETO.**

SECTION 4.7 Headings. The various headings of this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Agreement or any provisions hereof.

SECTION 4.8 Execution in Counterparts. This Agreement may be executed by the parties hereto in counterparts, each of which shall be deemed to be an original and all of which shall constitute together but one and the same agreement. Delivery by facsimile or other electronic transmission of an executed counterpart of a signature page to this Agreement shall be effective as delivery of an original executed counterpart of this Agreement.

SECTION 4.9 Cross-References. References in this Agreement to any Article or Section are, unless otherwise specified or otherwise required by the context, to such Article or Section of this Agreement.

SECTION 4.10 Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such provision and such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

SECTION 4.11 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

SECTION 4.12 **GOVERNING LAW**. **THIS AGREEMENT SHALL BE DEEMED TO BE A CONTRACT MADE UNDER AND GOVERNED BY THE LAW OF THE STATE OF NEW YORK, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.**

SECTION 4.13 Amendment. Each of the parties hereto acknowledges and agrees that the terms of this Agreement do not constitute a novation but, rather, subject to satisfaction of applicable conditions set forth herein, an amendment of the terms of a pre-existing Indebtedness and related agreement, as evidenced by the Existing Credit Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

EMERGING MARKETS COMMUNICATIONS, LLC, as  
Borrower

By: /s/ Thomas E. Severson  
Name: Thomas E. Severson  
Title: Chief Financial Officer

EMC ACQUISITION, LLC

By: /s/ Thomas E. Severson  
Name: Thomas E. Severson  
Title: Chief Financial Officer

SCISCO PARENT, INC.

By: /s/ Thomas E. Severson  
Name: Thomas E. Severson  
Title: Chief Financial Officer

SEAMOBILE INC.

By: /s/ Thomas E. Severson  
Name: Thomas E. Severson  
Title: Chief Financial Officer

MARITEL HOLDINGS, INC.

By: /s/ Thomas E. Severson  
Name: Thomas E. Severson  
Title: Chief Financial Officer

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MARITIME TELECOMMUNICATIONS NETWORK,  
INC.

By: /s/ Thomas E. Severson  
Name: Thomas E. Severson  
Title: Chief Financial Officer

MTN GOVERNMENT SERVICES, INC.

By: /s/ Thomas E. Severson  
Name: Thomas E. Severson  
Title: Chief Financial Officer

MTN LICENSE CORP.

By: /s/ Thomas E. Severson  
Name: Thomas E. Severson  
Title: Chief Financial Officer

MTN INTERNATIONAL, INC.

By: /s/ Thomas E. Severson  
Name: Thomas E. Severson  
Title: Chief Financial Officer

EMC-JV HOLDCO LLC

By: /s/ Thomas E. Severson  
Name: Thomas E. Severson  
Title: Chief Financial Officer

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MORGAN STANLEY SENIOR FUNDING, INC., as  
Administrative Agent

By: /s/ Reagan C. Philipp

Name: Reagan Philipp

Title: Authorized Signatory

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NORTH HAVEN CREDIT PARTNERS II L.P., as a Lender

By: MS Credit Partners II GP L.P., its general partner

By: MS Credit Partners II GP Inc., its general partner

By: /s/ Fay Chen

Name: Fay Chen

Title: Executive Director

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NEWSTONE CAPITAL PARTNERS II, L.P., as a Lender

By: Newstone Partners II, L.P., its General Partner

By: Newstone Partners II, LLC, its General Partner

By: /s/ Timothy P. Costello

Name: Timothy P. Costello

Title: Managing Director

---

SOLAR CAPITAL LTD., as a Lender

By: /s/ Krishna Thiyagarajan

Name: Krishna Thiyagarajan

Title: Authorized Signatory

---

Everest Funding, LLC as a Lender

By: Everest Funding, LLC as a Lender

Name: Jonathan M. Barnes

Title: Vice President

---

Apollo Trading, LLC as a Lender

By: /s/ Jonathan M. Barnes  
Name: Jonathan M. Barnes  
Title: Vice President

---

Capitala Finance Corp., as a Lender

By: /s/ Steve Arnall

Name: Steve Arnall

Title: CFO

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**ANNEX I  
CREDIT AGREEMENT**

[Provided under separate cover.]

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**ANNEX II**  
**EXHIBIT D-1 TO CREDIT AGREEMENT**

[Provided under separate cover.]

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<sup>1</sup>Compliance Certificate to be updated to conform to Credit Agreement.

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**ANNEX III**  
**SCHEDULE 7.02(f) and 10.02(a) TO CREDIT AGREEMENT**

[Provided under separate cover.]

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<sup>3</sup> Schedule 7.02(f) to be updated to include existing Global Eagle intercompany investments.

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**ANNEX IV  
FORM OF AMENDMENT NO. 1 TO CLOSING DATE INTERCREDITOR AGREEMENT**

[Provided under separate cover.]

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**ANNEX V**  
**FORM OF AMENDMENT NO. 1 TO SECOND LIEN SECURITY AGREEMENT**

[Provided under separate cover.]

**THE LIENS AND SECURITY INTEREST GRANTED HEREBY ARE SUBORDINATE IN THE MANNER AND TO THE EXTENT SET FORTH IN THAT CERTAIN CLOSING DATE INTERCREDITOR AGREEMENT (THE “CLOSING DATE INTERCREDITOR AGREEMENT”) DATED AS OF JULY 1, 2015, BETWEEN MORGAN STANLEY SENIOR FUNDING INC., AS FIRST LIEN CREDIT AGREEMENT ADMINISTRATIVE AGENT AND MORGAN STANLEY SENIOR FUNDING, INC., AS SECOND LIEN CREDIT AGREEMENT ADMINISTRATIVE AGENT.**

**SECOND LIEN SECURITY AGREEMENT**

dated as of  
July 1, 2015

among

THE GRANTORS IDENTIFIED HEREIN

and

MORGAN STANLEY SENIOR FUNDING, INC.,  
as Administrative Agent

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SECOND LIEN SECURITY AGREEMENT dated as of July 1, 2015 (as amended, restated, amended and restated, supplemented and otherwise modified from time to time, the “**Agreement**”), by and among the Grantors (as defined below) and Morgan Stanley Senior Funding, Inc., as Administrative Agent for the Secured Parties (in such capacity and together with its successors and permitted assigns in such capacity, the “**Administrative Agent**”).

Reference is made to the Second Lien Credit Agreement dated as of July 1, 2015 (as amended, restated, amended and restated, supplemented or otherwise modified in writing from time to time, the “**Credit Agreement**”), among EMC Acquisition, LLC, a Delaware limited liability company (“**Holdings**”), Emerging Markets Communications, LLC, a Delaware limited liability company (the “**Borrower**”), the other guarantors from time to time party thereto, Morgan Stanley Senior Funding, Inc., as Administrative Agent and each lender from time to time party thereto (collectively, the “**Lenders**” and, individually, a “**Lender**”). The Lenders have agreed to extend credit to the Borrower subject to the terms and conditions set forth in the Credit Agreement. The obligations of the Lenders to extend such credit are conditioned upon, among other things, the execution and delivery of this Agreement. Holdings and the Subsidiary Parties (as defined below) are affiliates of the Borrower, will derive substantial benefits from the extension of credit by the Lenders pursuant to the Credit Agreement, and are willing to execute and deliver this Agreement in order to induce the Lenders to extend such credit. It is acknowledged and agreed by all parties hereto that this Agreement is executed and effective on and from the Closing Date. Accordingly, the parties hereto agree as follows:

## ARTICLE 1 DEFINITIONS

### Section 1.01. *Credit Agreement.*

(a) Capitalized terms used in this Agreement and not otherwise defined herein have the meanings specified in the Credit Agreement. All terms defined in the UCC (as defined herein) and not defined in this Agreement have the meanings specified therein; the term “instrument” shall have the meaning specified in Article 9 of the UCC.

(b) The rules of construction specified in Article 1 (including Sections 1.01 through 1.11) of the Credit Agreement also apply to this Agreement.

Section 1.02. *Other Defined Terms.* As used in this Agreement, the following terms have the meanings specified below:

“**Account Debtor**” means any Person who is or who may become obligated to any Grantor under, with respect to or on account of an Account.

“**Accounts**” has the meaning specified in Article 9 of the UCC.

“**Administrative Agent**” has the meaning assigned to such term in the preliminary statements to this Agreement.

“**Article 9 Collateral**” has the meaning assigned to such term in Section 3.01(a).

“**Borrower**” has the meaning assigned to such term in the preliminary statements to this Agreement.

“**Collateral**” means the Article 9 Collateral and the Pledged Collateral.

“**Commercial Tort Claims**” has the meaning specified in Article 9 of the UCC.

“**Copyright License**” means any written agreement, now or hereafter in effect, granting any use right to any third party under any Copyright now or hereafter owned by any Grantor or that such Grantor otherwise has the right to license, or granting any use right to any Grantor under any Copyright now or hereafter owned by any third party, and all rights of such Grantor under any such agreement.

“**Copyrights**” means all of the following: (a) all copyright rights in any work subject to the copyright Laws of the United States, whether as author, assignee, transferee or otherwise, and (b) all registrations and applications for registration of any such copyright in the United States, including registrations, recordings, supplemental registrations and pending applications for registration in the USCO.

“**Credit Agreement**” has the meaning assigned to such term in the preliminary statements to this Agreement.

“**Designated First Lien Representative**” has the meaning assigned to such term in the Closing Date Intercreditor Agreement.

“**First Lien Administrative Agent**” shall mean the Administrative Agent, in its capacity as administrative agent under the First Lien Security Agreement, and any successors and permitted assigns thereof.

“**General Intangibles**” has the meaning specified in Article 9 of the UCC.

“**Grantor**” means the Borrower, each Guarantor that is a party hereto, and each Guarantor that is a Domestic Subsidiary that becomes a party to this Agreement after the Closing Date.

“**Intellectual Property**” means all intellectual property of every kind and nature throughout the world, including: (a) Patents, Copyrights, Trademarks, trade secrets, intellectual property rights in software and databases and related documentation and all additions and improvements to the foregoing and (b) renewals, extensions, supplements and continuations thereof.

“**Intellectual Property Security Agreements**” means the short-form Patent Security Agreement, short-form Trademark Security Agreement, and short-form Copyright Security Agreement, each substantially in the form attached hereto as Exhibits III, IV and V, respectively.

“**Lenders**” has the meaning assigned to such term in the preliminary statements to this Agreement.

“**License**” means any Patent License, Trademark License, Copyright License or other Intellectual Property license or sublicense agreement to which any Grantor is a party; *provided*, that Licenses shall not include any Excluded Assets.

“**Patent License**” means any written agreement, now or hereafter in effect, granting to any third party any right to make, use or sell any invention on which a Patent, now or hereafter owned by any Grantor or that any Grantor otherwise has the right to license, exists, or granting to any

Grantor any right to make, use or sell any invention on which a Patent, now or hereafter owned by any third party, exists, and all rights of any Grantor under any such agreement.

“**Patents**” means all of the following: (a) all letters patent of the United States, all registrations and recordings thereof, and all applications for letters patent of the United States, including registrations, recordings and pending applications in the USPTO; and (b) all reissues, continuations, divisionals, continuations-in-part, improvements or extensions thereof, including the right to make, use and/or sell the inventions disclosed or claimed therein.

“**Perfection Certificate**” means a certificate substantially in the form of Exhibit II, completed and supplemented with the schedules and attachments contemplated thereby, and duly executed by a Responsible Officer of each Grantor.

“**Pledged Collateral**” has the meaning assigned to such term in Section 2.01.

“**Pledged Debt**” has the meaning assigned to such term in Section 2.01.

“**Pledged Equity**” has the meaning assigned to such term in Section 2.01.

“**Pledged Securities**” means the Pledged Equity and Pledged Debt.

“**Proceeds**” shall mean all “proceeds” as such term is defined in the UCC.

“**Registered Intellectual Property Collateral**” means the Collateral consisting of United States issued Patents, United States registered Trademarks and United States registered Copyrights and, in each case, applications therefor.

“**Security Agreement Supplement**” means an instrument substantially in the form of Exhibit I hereto.

“**Security Interest**” has the meaning assigned to such term in Section 3.01(a).

“**Subsidiary Parties**” means (a) the Restricted Subsidiaries identified on Schedule I and (b) each other Restricted Subsidiary that becomes a party to this Agreement as a Subsidiary Party after the Closing Date.

“**Trademark License**” means any written agreement, now or hereafter in effect, granting to any third party any right to use any Trademark now or hereafter owned by any Grantor or that any Grantor otherwise has the right to license, or granting to any Grantor any right to use any Trademark now or hereafter owned by any third party, and all rights of any Grantor under any such agreement.

“**Trademarks**” means all of the following: (a) all trademarks, service marks, trade names, corporate names, fictitious business names, and other source or business identifiers, now existing or hereafter adopted or acquired and whether registered or unregistered, all registrations and recordings thereof, and all registration and recording applications filed in connection therewith, including registrations and registration applications in the USPTO or any similar offices in any State of the United States or any political subdivision thereof and all extensions or renewals thereof; and (b) all goodwill connected with the use of and symbolized thereby; *provided*, that “**Trademarks**” shall not include any Excluded Assets.

“UCC” means the Uniform Commercial Code as from time to time in effect in the State of New York; *provided* that, if perfection or the effect of perfection or non-perfection or the priority of the 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.

“USCO” means the United States Copyright Office.

“USPTO” means the United States Patent and Trademark Office.

## ARTICLE 2 PLEDGE OF SECURITIES

Section 2.01. *Pledge*. As security for the payment or performance in full of the Secured Obligations, including the Guaranteed Obligations, each of the Grantors hereby pledges to the Administrative Agent, its successors and permitted assigns, for the benefit of the Secured Parties, and hereby grants to the Administrative Agent, its successors and permitted assigns, for the benefit of the Secured Parties, a second-priority security interest in all of such Grantor’s right, title and interest in, to and under any and all of the following assets and properties now owned or at any time hereafter acquired by such Grantor or in which such Grantor now has or at any time in the future may acquire right, title or interest:

(i) all Equity Interests held by it, including without limitation, the Equity Interests which are listed on Schedule II, and any other Equity Interests obtained in the future by such Grantor and the certificates (if any) representing all such Equity Interests (the “**Pledged Equity**”); *provided* that the Pledged Equity shall not include (A) Excluded Assets or (B) for the avoidance of doubt, Equity Interests in excess of 65% of the issued and outstanding Equity Interests of (1) any Restricted Subsidiary that is a CFC Holding Company and (2) any Restricted Subsidiary that is a wholly owned Foreign Subsidiary that is directly owned by the Borrower or by any Subsidiary Guarantor;

(ii) (A) all debt securities owned by it, including without limitation, the debt securities which are listed opposite the name of such Grantor on Schedule II, (B) any debt securities obtained in the future by such Grantor and (C) the promissory notes and any other instruments evidencing such debt securities (the “**Pledged Debt**”);

(iii) all other property that may be delivered to and held by the Administrative Agent pursuant to the terms of this Agreement;

(iv) subject to Section 2.06, all payments of principal or interest, dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of, in exchange for or upon the conversion of, and all other Proceeds received in respect of, the securities referred to in clauses (i) and (ii) above;

(v) subject to Section 2.06, all rights and privileges of such Grantor with respect to the securities and other property referred to in clauses (i), (ii), (iii) and (iv) above; and

(vi) all Proceeds of any of the foregoing

(the items referred to in clauses (i) through (vi) above being collectively referred to as the **'Pledged Collateral'**). For the avoidance of doubt, neither "Pledged Collateral" nor any defined term used therein shall include any Excluded Assets.

TO HAVE AND TO HOLD the Pledged Collateral, together with all right, title, interest, powers, privileges and preferences pertaining or incidental thereto, unto the Administrative Agent, its successors and permitted assigns, for the benefit of the Secured Parties, forever, subject, however, to the terms, covenants and conditions hereinafter set forth.

Section 2.02. *Delivery of the Pledged Securities.*

(a) As of the Closing Date, each Grantor has delivered or caused to be delivered to the First Lien Administrative Agent, for the benefit of the Secured Parties, any and all Pledged Equity evidenced by a certificate and, to the extent required to be delivered pursuant to Section 2.02(b) below, any and all Pledged Debt; *provided* that no Grantor shall be required to take any action to perfect the interest of the Secured Parties in the Pledged Equity of Foreign Subsidiaries that are Immaterial Subsidiaries, including but not limited to delivering any pledges under the laws of any non-U.S. jurisdiction and delivering or causing to be delivered any certificates evidencing such Pledged Equity. Each Grantor agrees promptly (but in any event within 10 Business Days after receipt by such Grantor or such longer period as the Administrative Agent may agree in its reasonable discretion) to deliver or cause to be delivered to the Administrative Agent (subject to the Intercreditor Agreements), for the benefit of the Secured Parties, any and all Pledged Equity acquired after the Closing Date that is evidenced by a certificate and, to the extent required to be delivered pursuant to Section 2.02(b), any and all Pledged Debt acquired after the Closing Date.

(b) Each Grantor will cause any Indebtedness for borrowed money having an aggregate principal amount in excess of \$5,000,000 owed to such Grantor by any Person that is evidenced by a duly executed promissory note to be pledged and delivered to the Administrative Agent, for the benefit of the Secured Parties, pursuant to the terms hereof.

(c) Upon delivery to the Administrative Agent, any Pledged Securities shall be accompanied by stock or security powers, endorsements or allonges duly executed in blank or other instruments of transfer reasonably satisfactory to the Administrative Agent (other than instruments or documents requiring actions in any non-U.S. jurisdiction related to Equity Interests of Foreign Subsidiaries). Each delivery of Pledged Securities shall be accompanied by (and to the extent such delivery is to an agent or representative other than the Administrative Agent pursuant to the terms of the Intercreditor Agreements, the Borrower shall separately deliver) a schedule describing the Pledged Securities, which schedule shall be deemed to supplement Schedule II and made a part hereof; *provided* that failure to supplement Schedule II shall not affect the validity of such pledge of such Pledged Securities. Each schedule so delivered shall supplement any prior schedules so delivered.

(d) No actions in any non-U.S. jurisdiction or required by the Laws of any non-U.S. jurisdiction shall be required in order to create any security interests in assets located, titled, registered or filed outside of the U.S. or to perfect such security interests (it being

understood that there shall be no security agreements or pledge agreements governed under the Laws of any non-U.S. jurisdiction).

Section 2.03. *Representations, Warranties and Covenants.* Each Grantor represents, warrants and covenants to and with the Administrative Agent, for the benefit of the Secured Parties, that:

(a) As of the date hereof, Schedule II includes all Equity Interests, debt securities and promissory notes required to be pledged by such Grantor hereunder in order to satisfy the Collateral and Guarantee Requirement;

(b) the Pledged Equity issued by the Borrower or a wholly-owned Restricted Subsidiary have been duly and validly authorized and issued by the issuers thereof and are fully paid and non-assessable (if applicable);

(c) except for the security interests granted hereunder, such Grantor (i) is, subject to any transfers made in compliance with the Credit Agreement, the direct owner, beneficially and of record, of the Pledged Securities indicated on Schedule II to be owned by such Grantor, (ii) holds the same free and clear of all Liens, other than (A) Liens created by the Collateral Documents and (B) Liens permitted pursuant to Section 7.01 of the Credit Agreement, and (iii) if reasonably requested by the Administrative Agent, will defend its title or interest thereto or therein against any and all Liens (other than the Liens permitted pursuant to this Section 2.03(c)), however arising, of all Persons whomsoever;

(d) as of the Closing Date, except for restrictions and limitations (i) imposed or permitted by the Loan Documents, the First Lien Loan Documents, Contractual Obligations permitted pursuant to Section 7.09 of the Credit Agreement, or securities laws generally, (ii) imposed by the Communications Act with respect to any proposed transfer of control or assignment of a FCC Authorization, and (iii) in the case of Pledged Equity of Persons that are not Subsidiaries, transfer restrictions that exist at the time of acquisition of Equity Interests in such Persons (but not entered into in contemplation thereof), the Pledged Collateral is freely transferable and assignable, and none of the Pledged Collateral is subject to any option, right of first refusal, shareholders agreement, charter or bylaw provisions or contractual restriction of any nature that could reasonably be expected to prohibit, impair, delay or otherwise affect, in each case, in any manner material and adverse to the Secured Parties the pledge of such Pledged Collateral hereunder, the sale or disposition thereof pursuant hereto or the exercise by the Administrative Agent of rights and remedies hereunder;

(e) the execution and performance by the Grantors of this Agreement are within each Grantor's corporate or limited liability company powers and have been duly authorized by all necessary corporate action or other organizational action;

(f) no approval, consent, exemption, authorization or other action, filing, notice or registration is necessary to ensure the validity of the pledge effected hereby, except for (i) approvals, consents, exemptions, authorizations, or other actions by, or notices to, or filings and registrations necessary to perfect the Liens on the Collateral granted by the Loan

Parties in favor of the Secured Parties (or release existing Liens) under applicable U.S. law, (ii) the approvals, consents, exemptions, authorizations, actions, notices and filings which have been duly obtained, taken, given or made and are in full force and effect (except to the extent not required to be obtained, taken, given or made or in full force and effect pursuant to the Collateral and Guarantee Requirement) and (iii) those approvals, consents, exemptions, authorizations or other actions, notices or filings, the failure of which to obtain or make could not reasonably be expected to have a Material Adverse Effect;

(g) by virtue of the execution and delivery by each Grantor of this Agreement, and delivery of the Pledged Equity to and continued possession by the Administrative Agent in the State of New York, the Administrative Agent (for the benefit of the Secured Parties) has a legal, valid and perfected second-priority lien upon and security interest in such Pledged Equity as security for the payment and performance of the Secured Obligations to the extent such perfection is governed by the UCC, subject only to the provisions of the Closing Date Intercreditor Agreement, Liens permitted by Section 7.01 of the Credit Agreement and the Enforcement Qualifications;

(h) by virtue of (i) the filing of UCC financing statements or other appropriate filings, recordings or registrations prepared by the Administrative Agent based upon the information provided to the Administrative Agent in the Perfection Certificate for filing in the applicable filing office, in each case, as required by the Collateral and Guarantee Requirement and Section 6.11 of the Credit Agreement and (ii) delivery of the Pledged Debt to and continued possession of the Pledged Debt by the Administrative Agent in the State of New York, the Administrative Agent (for the benefit of the Secured Parties) has a legal, valid and perfected second-priority security interest in respect of all Collateral in which the Security Interest in the Pledged Debt may be perfected by filing or recording in the United States (or any political subdivision thereof) and its territories and possessions pursuant to the UCC or by possession of the Pledged Debt (subject, in each case, to the Enforcement Qualifications); and

(i) subject to the terms of the Intercreditor Agreements, the pledge effected hereby is effective to vest in the Administrative Agent, for the benefit of the Secured Parties, the rights set forth herein of the Administrative Agent in the Pledged Collateral.

Subject to the terms of this Agreement and the Intercreditor Agreements, each Grantor hereby agrees that upon the occurrence and during the continuance of an Event of Default, it will comply with instructions of the Administrative Agent with respect to the Equity Interests in such Grantor that constitute Pledged Equity hereunder without further consent by the applicable owner or holder of such Equity Interests.

Notwithstanding anything to the contrary in this Agreement, to the extent any provision of this Agreement or the Credit Agreement excludes any assets from the scope of the Pledged Collateral, or from any requirement to take any action to perfect any security interest in favor of the Administrative Agent in the Pledged Collateral, the representations, warranties and covenants made by any relevant Grantor in this Agreement with respect to the creation, perfection or priority (as applicable) of the security interest granted in favor of the Administrative Agent (including, without limitation, this Section 2.03) shall be deemed not to apply to such excluded assets.

Section 2.04. *Certification of Limited Liability Company and Limited Partnership Interests.* No interest in any limited liability company or limited partnership controlled by any Grantor that constitutes Pledged Equity is, or shall be, represented by a certificate unless the limited liability company agreement or partnership agreement expressly provides that such interests shall be a “security” within the meaning of Article 8 of the UCC; *provided* that, regardless of whether such Pledged Equity is a “security” within the meaning of Article 8 of the UCC, any and all certificates evidencing such Pledged Equity shall, after Discharge of the First Lien Credit Agreement Obligations and subject to the terms of any Parity Intercreditor Agreement (if any), be delivered to the Administrative Agent in accordance with Section 2.02. If any limited liability company or limited partnership controlled by any Grantor, the interest of which is pledged under Section 2.01, includes in its limited liability company agreement or partnership agreement that any interests in such limited liability company or such limited partnership be a “security” as defined under Article 8 of the UCC, the applicable Grantor shall promptly certificate any Equity Interests in any such limited liability company or such limited partnership. To the extent an interest in any limited liability company or limited partnership controlled by any Grantor and pledged under Section 2.01 is certificated or becomes certificated, (i) each such certificate shall, after Discharge of the First Lien Credit Agreement Obligations and subject to the terms of any Parity Intercreditor Agreement (if any), be delivered to the Administrative Agent, pursuant to Section 2.02(a) and (ii) such Grantor shall fulfill all other requirements under Section 2.02 applicable in respect thereof. To the extent an interest in any limited liability company or limited partnership controlled by any Grantor and pledged under Section 2.01 is an “uncertificated security” as defined under Article 8 of the UCC, each Grantor shall not permit any issuer of such uncertificated securities (other than (x) an uncertificated security credited on the books of a Clearing Corporation or Securities Intermediary and (y) an uncertificated security issued by a Person that is not a Restricted Subsidiary of the Borrower) to (i) enter into any agreement with any Person, other than the Administrative Agent, whereby such issuer effectively delivers “control” of such uncertificated securities under the UCC to such Person, or (ii) allow such uncertificated securities to become “certificated securities”, as defined under Article 8 of the UCC, unless such Grantor complies with the procedures set forth in this Section 2.04.

Section 2.05. *Registration in Nominee Name; Denominations.* If an Event of Default shall have occurred and be continuing and the Administrative Agent shall have given the Borrower two (2) Business Days prior written notice of its intent to exercise such rights, the Administrative Agent, on behalf of the Secured Parties, shall (subject to the terms of the Intercreditor Agreements) have the right to hold the Pledged Equity in its own name as pledgee, the name of its nominee (as pledgee or as subagent) or the name of the applicable Grantor, endorsed or assigned in blank or in favor of the Administrative Agent and each Grantor will promptly give to the Administrative Agent copies of any written notices or other written communications received by it with respect to Pledged Equity registered in the name of such Grantor and to the extent permitted by the documentation governing such Pledged Equity, the Administrative Agent shall have the right (subject to the terms of the Intercreditor Agreements) to exchange the certificates representing Pledged Equity for certificates of smaller or larger denominations for any purpose consistent with this Agreement.

Section 2.06. *Voting Rights; Dividends and Interest.*

(a) Subject to the terms of the Intercreditor Agreements, unless and until an Event of Default shall have occurred and be continuing and the Administrative Agent shall have provided two (2) Business Days prior written notice to the Borrower that the rights of the Grantor under this Section 2.06 are being suspended:

(i) Each Grantor shall be entitled to exercise any and all voting and/or other consensual rights and powers inuring to an owner of Pledged Securities or any part thereof and each Grantor agrees that it shall not exercise such rights in violation of this Agreement, the Credit Agreement and the other Loan Documents.

(ii) The Administrative Agent shall promptly (after reasonable advance notice) execute and deliver to each Grantor, or cause to be executed and delivered to such Grantor, all such proxies, powers of attorney and other instruments as such Grantor may reasonably request for the purpose of enabling such Grantor to exercise the voting and/or consensual rights and powers it is entitled to exercise pursuant to subparagraph (i) above.

(iii) Each Grantor shall be entitled to receive and retain any and all dividends, interest, principal and other distributions paid on or distributed in respect of the Pledged Securities to the extent and only to the extent that such dividends, interest, principal and other distributions are permitted by, and otherwise paid or distributed in accordance with, the terms and conditions of the Credit Agreement, the other Loan Documents and applicable Laws; *provided* that any noncash dividends, interest, principal or other distributions that would constitute Pledged Equity or Pledged Debt, whether resulting from a subdivision, combination or reclassification of the outstanding Equity Interests of the issuer of any Pledged Securities or received in exchange for Pledged Securities or any part thereof, or in redemption thereof, or as a result of any merger, consolidation, acquisition or other exchange of assets to which such issuer may be a party or otherwise, shall be and become part of the Pledged Collateral, and, if received by any Grantor, shall not be commingled by such Grantor with any of its other funds or property but shall be held separate and apart therefrom, for the benefit of the Administrative Agent and the Secured Parties and shall (subject to the terms of the Intercreditor Agreements) be promptly (and in any event within 10 Business Days or such longer period as the Administrative Agent may agree in its reasonable discretion) delivered to the Administrative Agent in the same form as so received (with any endorsement reasonably requested by the Administrative Agent). So long as no Event of Default has occurred and is continuing, the Administrative Agent shall promptly deliver to each Grantor any Pledged Securities in its possession if requested to be delivered to the issuer thereof in connection with any exchange or redemption of such Pledged Securities permitted by the Credit Agreement in accordance with this Section 2.06(a)(iii).

(b) Subject to the terms of the Intercreditor Agreement, upon the occurrence and during the continuance of an Event of Default, after the Administrative Agent shall have notified the Borrower of the suspension of the Grantors' rights under paragraph (a)(iii) of this Section 2.06, then all rights of any Grantor to dividends, interest, principal or other distributions that such Grantor is authorized to receive pursuant to paragraph (a)(iii) of this Section 2.06 shall cease, and all such rights shall thereupon become vested in the Administrative Agent, which (subject to the terms of the Intercreditor Agreements) shall have the sole and exclusive right and authority to receive and retain such dividends, interest, principal or other distributions. All dividends, interest, principal or other distributions received by any Grantor contrary to the provisions of this Section 2.06 shall not be commingled by such Grantor with any of its other funds or property but shall be held separate and apart therefrom, for the benefit of the Administrative Agent and the Secured Parties and shall (subject to the terms of the Intercreditor Agreements) be promptly (and in any event within 10 Business Days or such longer period as the Administrative Agent may agree in its reasonable discretion) delivered to the Administrative Agent upon demand in the same form as so received (with any endorsement reasonably requested by the Administrative Agent). Any and all money and other

property paid over to or received by the Administrative Agent pursuant to the provisions of this paragraph (b) shall be retained by the Administrative Agent in an account to be established by the Administrative Agent upon receipt of such money or other property and (subject to the terms of the Intercreditor Agreements) shall be applied in accordance with the provisions of Section 4.02. After all Events of Default have been cured or waived, the Administrative Agent shall promptly repay to each Grantor (without interest) all dividends, interest, principal or other distributions that such Grantor would otherwise be permitted to retain pursuant to the terms of paragraph (a)(ii) of this Section 2.06 and that remain in such account.

(c) Subject to the terms of the Intercreditor Agreement, upon the occurrence and during the continuance of an Event of Default, after the Administrative Agent shall have provided the Borrower with notice of the suspension of its rights under paragraph (a)(i) of this Section 2.06, then all rights of any Grantor to exercise the voting and consensual rights and powers it is entitled to exercise pursuant to paragraph (a)(i) of this Section 2.06, and the obligations of the Administrative Agent under paragraph (a)(ii) of this Section 2.06, shall cease, and all such rights shall thereupon become vested in the Administrative Agent, which shall have the sole and exclusive right and authority to exercise such voting and consensual rights and powers; *provided* that, unless otherwise directed by the Required Lenders, the Administrative Agent shall have the right from time to time following and during the continuance of an Event of Default to permit the Grantors to exercise such rights. After all Events of Default have been cured or waived, each Grantor shall have the exclusive right to exercise the voting and/or consensual rights and powers that the Borrower would otherwise be entitled to exercise pursuant to the terms of paragraph (a)(i) above, and the obligations of the Administrative Agent under paragraph (a)(ii) of this Section 2.06 shall be reinstated.

(d) In order to permit the Administrative Agent to exercise the voting and other consensual rights which it may be entitled to exercise pursuant hereto and to receive all dividends and other distributions which it may be entitled to receive hereunder, each Grantor shall promptly execute and deliver (or cause to be executed and delivered) to the Administrative Agent all proxies, dividend payment orders and other instruments as the Administrative Agent may from time to time reasonably request, but in any event solely after an Event of Default has occurred and is continuing, and after having provided required notice to Borrower of its desire to exercise its rights hereunder, and each Grantor acknowledges that the Administrative Agent may (subject to the terms of the Intercreditor Agreements) utilize the power of attorney set forth in Section 6.13 herein in accordance with the terms thereof.

(e) Any notice given by the Administrative Agent to the Borrower under Section 2.05 or this Section 2.06 (i) shall be given in writing, (ii) may be given with respect to one or more Grantors at the same or different times and (iii) may suspend the rights of the Grantors under paragraph (a)(i) or paragraph (a)(iii) of this Section 2.06 in part without suspending all such rights (as specified by the Administrative Agent in its sole and absolute discretion) and without waiving or otherwise affecting the Administrative Agent's rights to give additional notices from time to time suspending other rights so long as an Event of Default has occurred and is continuing.

(f) Notwithstanding anything to the contrary herein or in any other Loan Document, the Administrative Agent shall not exercise voting rights under this Section 2.06 with respect to any Pledged Securities unless and until it has obtained FCC consent to any transfers of control or assignments that would result from the assumption of voting rights for such Pledged Securities (if applicable).

ARTICLE 3  
SECURITY INTERESTS IN PERSONAL PROPERTY

Section 3.01. *Security Interest.*

(a) As security for the payment or performance in full of the Secured Obligations, including the Guaranteed Obligations, each Grantor hereby pledges to the Administrative Agent, its successors and permitted assigns, for the benefit of the Secured Parties, and hereby grants to the Administrative Agent, its successors and permitted assigns, for the benefit of the Secured Parties, a second-priority security interest (the “**Security Interest**”) in, all right, title or interest in or to any and all of the following assets and properties now owned or at any time hereafter acquired by such Grantor or in which such Grantor now has or at any time in the future may acquire any right, title or interest (collectively, the “**Article 9 Collateral**”):

- (i) all Accounts;
- (ii) all Chattel Paper;
- (iii) all Documents;
- (iv) all Equipment and Fixtures;
- (v) all General Intangibles;
- (vi) all Goods;
- (vii) all Instruments;
- (viii) all Inventory;
- (ix) all Investment Property;
- (x) all Letter-of-Credit Rights to the extent constituting a Supporting Obligation for other Article 9 Collateral as to which perfection of security interests in such Article 9 Collateral is accomplished solely by the filing of a UCC financing statement;
- (xi) all books and records pertaining to the Article 9 Collateral;
- (xii) all Intellectual Property and Licenses;
- (xiii) all Commercial Tort Claims listed on Schedule III and on any supplement thereto received by the Administrative Agent pursuant to Section 3.03(g); and
- (xiv) to the extent not otherwise included, all Proceeds, products, accessions, rents and profits of any and all of the foregoing and all Supporting Obligations, collateral security and guarantees given by any Person with respect to any of the foregoing;

*provided* that, notwithstanding anything to the contrary in this Agreement, (i) this Agreement shall not constitute a grant of a security interest in any Excluded Assets and (ii) the Article 9 Collateral (nor any defined term therein) shall not include any Excluded Assets.

(b) Subject to Section 3.01(e), each Grantor hereby irrevocably authorizes the Administrative Agent for the benefit of the Secured Parties at any time and from time to time to file in any relevant jurisdiction any financing statements with respect to the Collateral or any part thereof and amendments thereto and continuations thereof that (i) indicate the Collateral as “all assets of the debtor, whether now existing or hereafter arising” or words of similar effect as being of an equal or lesser scope or with greater detail and (ii) contain the information required by Article 9 of the UCC or the analogous legislation of each applicable jurisdiction for the filing of any financing statement or amendment, including whether such Grantor is an organization, the type of organization and, if required, any organizational identification number issued to such Grantor. Each Grantor agrees to provide such information to the Administrative Agent promptly upon any reasonable request.

(c) The Security Interest is granted as security only and shall not subject the Administrative Agent or any other Secured Party to, or in any way alter or modify, any obligation or liability of any Grantor with respect to or arising out of the Collateral; *provided* that the foregoing will not limit or otherwise affect the obligations and liabilities of the Grantors to the extent set forth herein and in the other Loan Documents.

(d) Upon three (3) Business Days prior written notice (or, with respect to filings as of the Closing Date, without any such notice) to the applicable Grantor, the Administrative Agent is authorized to file with the USPTO or the USCO (or any successor office) additional documents (including any Intellectual Property Security Agreements and/or supplements thereto) as may be necessary for the purpose of perfecting, confirming, continuing, enforcing (subject to the terms of the Intercreditor Agreements) or protecting the Security Interest in the Registered Intellectual Property Collateral of each Grantor in which a security interest has been granted by each Grantor, and naming any Grantor as debtor and the Administrative Agent as secured party.

(e) Notwithstanding anything to the contrary in the Loan Documents, none of the Grantors shall be required, nor is the Administrative Agent authorized, (i) to perfect the Security Interests granted by this Agreement (including Security Interests in Investment Property and Fixtures) by any means other than by (A) filings pursuant to the UCC in the office of the secretary of state (or similar central filing office) of the relevant State(s), and filings in the applicable real estate records with respect to any fixtures relating to Mortgaged Property to the extent required by the Collateral and Guarantee Requirement, (B) filings in United States government offices with respect to Intellectual Property of Grantor as expressly required elsewhere herein, (C) delivery to the Administrative Agent to be held in its possession of all Collateral consisting of Instruments or certificated Pledged Collateral as expressly required and subject to the limitations specified elsewhere herein or (D) other methods expressly provided herein, (ii) to enter into any deposit account control agreement, securities account control agreement or any other control agreement with respect to any deposit account, securities account or any other Collateral that requires perfection by

“control,” (iii) to take any action (other than the actions listed in clauses (i)(A) and (C) above) with respect to any assets located outside of the United States or any other assets, including any Intellectual Property registered in any non-U.S. jurisdiction (and no security agreements or pledge agreements governed under the laws of any non-U.S. jurisdiction shall be required), (iv) to perfect in any assets subject to a certificate of title statute or (v) to deliver any Equity Interests except as expressly provided in Section 2.02.

Section 3.02. *Representations and Warranties.* Each Grantor, jointly and severally, represents and warrants to the Administrative Agent and the Secured Parties that:

(a) Each Grantor has good and valid rights in and title (except as otherwise permitted by the Loan Documents) to (or, with respect to Licenses, a license or other permission to use) the Article 9 Collateral with respect to which it has purported to grant a Security Interest hereunder and has full organizational power and authority to grant to the Administrative Agent the Security Interest in such Article 9 Collateral pursuant hereto and to execute, deliver and perform its obligations in accordance with the terms of this Agreement, without the consent or approval of any Governmental Authority other than (i) any consent or approval that has been obtained or (ii) any consent or approval for which the lack thereof could not reasonably be expected to cause a Material Adverse Effect.

(b) The Perfection Certificate has been duly prepared, completed and executed and the information set forth therein is correct and complete in all material respects (except the information therein with respect to the exact legal name of each Grantor shall be correct and complete in all respects) as of the Closing Date. The UCC financing statements or other appropriate filings, recordings or registrations prepared by the Administrative Agent based upon the information provided to the Administrative Agent in the Perfection Certificate for filing in the applicable filing office (or specified by notice from the Borrower to the Administrative Agent after the Closing Date in the case of filings, recordings or registrations (other than filings required to be made in the USPTO and the USCO in order to perfect the Security Interest in Article 9 Collateral consisting of Registered Intellectual Property Collateral), in each case, as required by the Collateral and Guarantee Requirement and Section 6.11 of the Credit Agreement), are all the filings, recordings and registrations that are necessary to establish a legal, valid and perfected second-priority security interest in favor of the Administrative Agent (for the benefit of the Secured Parties) in respect of all Collateral in which the Security Interest may be perfected by filing, recording or registration in the United States (or any political subdivision thereof) and its territories and possessions pursuant to the UCC; *provided, however*, that additional filings may be necessary in the USPTO and USCO to perfect the Security Interest in any Registered Intellectual Property Collateral acquired, owned, filed or developed by or on behalf of any Grantor after the date hereof.

(c) Each Grantor represents and warrants that the Intellectual Property Security Agreements containing a description of all Registered Intellectual Property Collateral (other than, in each case, any Excluded Assets), have been delivered as of or prior to the date hereof to the Administrative Agent for recording with the USPTO and the USCO pursuant to 35

U.S.C. § 261, 15 U.S.C. § 1060 or 17 U.S.C. § 205 and the regulations thereunder, as applicable, (for the benefit of the Secured Parties) in respect of all Registered Intellectual Property Collateral to the extent required by this Agreement or the Credit Agreement. To the extent a security interest may be perfected by filing, recording or registration with the USPTO or the USCO under the U.S. Federal intellectual property laws, then no further or subsequent filing, re-filing, recording, rerecording, registration or reregistration is necessary (other than (i) such filings and actions as are necessary to perfect the Security Interest with respect to any Registered Intellectual Property Collateral acquired, owned, filed or developed by or on behalf of any Grantor after the date hereof and (ii) the UCC financing and continuation statements contemplated in Section 3.02(b)).

(d) The Security Interest constitutes (i) a legal and valid second-priority security interest in all the Article 9 Collateral securing the payment and performance of the Secured Obligations, (ii) subject to the filings described in Section 3.02(b), a perfected second-priority security interest in all Article 9 Collateral in which a security interest may be perfected by filing, recording or registering a financing statement or analogous document in the United States (or any political subdivision thereof) pursuant to the UCC, and (iii) subject to the filings described in Section 3.02(c), a perfected security interest in all Intellectual Property included in the Article 9 Collateral in which a security interest may be perfected by filing, recording or registering a security agreement or analogous document with the USPTO or the USCO, as applicable. The Security Interest is and shall be prior to any other Lien on any of the Article 9 Collateral, other than any Liens permitted pursuant to Section 7.01 of the Credit Agreement.

(e) The Article 9 Collateral is owned by the Grantors free and clear of any Lien, except for Liens permitted pursuant to Section 7.01 of the Credit Agreement. None of the Grantors has filed or consented to the filing of (i) any assignment in which any Grantor assigns any Article 9 Collateral or any security agreement or similar instrument covering any Article 9 Collateral with the USPTO or the USCO or (ii) any assignment in which any Grantor assigns any Collateral or any security agreement or similar instrument covering any Collateral with any foreign governmental, municipal or other office, which financing statement or analogous document, assignment, security agreement or similar instrument is still in effect, except, in each case, for Liens expressly permitted pursuant to Section 7.01 of the Credit Agreement and assignments expressly permitted by the Credit Agreement.

(f) As of the date hereof, no Grantor has any Commercial Tort Claim in respect of which a complaint or a counterclaim has been filed by such Grantor, seeking damages in an amount reasonably estimated to exceed \$2,500,000, other than the Commercial Tort Claims listed on Schedule III.

Section 3.03. *Covenants.*

(a) The Borrower agrees to notify the Administrative Agent in writing (x) promptly, but in any event within five (5) Business Days following (or such longer period as the Administrative Agent may agree in its reasonable discretion), any change in (i) the legal name of any Grantor, (ii) the identity or type of organization or corporate structure of

any Grantor, or (iii). the jurisdiction of organization of any Grantor and (y) promptly, but at any event within twenty (20) Business Days (or such longer period as the Administrative Agent may agree in its reasonable discretion) after any change in (i) the chief executive office of any Grantor or (ii) the organizational identification number of such Grantor, if any.

(b) Subject to Section 3.01(e), each Grantor shall, at its own expense, upon the reasonable request of the Administrative Agent, take any and all commercially reasonable actions necessary to defend title to the Collateral against all Persons and to defend the Security Interest of the Administrative Agent in the Article 9 Collateral and the second-priority thereof against any Lien not permitted pursuant to Section 7.01 of the Credit Agreement; *provided* that, nothing in this Agreement shall prevent any Grantor from discontinuing the operation or maintenance of any of its assets or properties if such discontinuance is permitted by the Credit Agreement.

(c) Subject to Section 3.01(e) and the terms of the Intercreditor Agreements, each Grantor agrees, at its own expense, to promptly execute, acknowledge, deliver and cause to be filed all such further instruments and documents and take all such actions as the Administrative Agent may from time to time reasonably request to better assure, preserve, protect and perfect the Security Interest and the rights and remedies created hereby, including the payment of any fees and taxes reasonably required in connection with the execution and delivery of this Agreement, the granting of the Security Interest and the filing of any financing statements or other documents in connection herewith or therewith. Notwithstanding the foregoing, nothing in this Agreement or in any other Loan Document shall require any Grantor to make any filings or take any other actions in any jurisdiction outside of the United States to record or perfect the Administrative Agent's security interest in any Intellectual Property of any Grantor.

(d) At its option after the occurrence and during the continuance of an Event of Default, upon five (5) Business Days' prior written notice to the Grantors, the Administrative Agent may discharge past due taxes, assessments, charges, fees, Liens, security interests or other encumbrances at any time levied or placed on the Collateral and not permitted pursuant to Section 7.01 of the Credit Agreement, and may pay for the maintenance and preservation of the Collateral to the extent any Grantor fails to do so as required by the Credit Agreement or any other Loan Document and within a reasonable period of time after the Administrative Agent has required that it do so, and each Grantor jointly and severally agrees to reimburse the Administrative Agent pursuant to the terms of the Credit Agreement; *provided, however*, the Grantors shall not be obligated to reimburse the Administrative Agent with respect to any Intellectual Property that any Grantor has failed to maintain or pursue, or otherwise allowed to lapse, terminate or be put into the public domain in accordance with Section 3.03(f)(iv). Nothing in this paragraph shall be interpreted as excusing any Grantor from the performance of, or imposing any obligation on the Administrative Agent or any Secured Party to cure or perform, any covenants or other promises of any Grantor with respect to taxes, assessments, charges, fees, Liens, security interests or other encumbrances and maintenance as set forth herein or in the other Loan Documents.

(e) If at any time any Grantor shall take a security interest in any property of an Account Debtor or any other Person the value of which is in excess of \$2,500,000 to secure payment and performance of an Account, such Grantor shall promptly grant a second-priority security interest to the Administrative Agent for the benefit of the Secured Parties; *provided* that, notwithstanding anything to the contrary in this Agreement, such grant shall not constitute a grant of a security interest in any Excluded Assets. Such grant need not be filed of public record unless necessary to continue the perfected status of the security interest against creditors of and transferees from the Account Debtor or other Person granting the security interest.

(f) Intellectual Property Covenants.

(i) Other than to the extent not prohibited herein or in the Credit Agreement, or with respect to registrations and applications no longer used by or useful to Grantors in the applicable Grantor's business operations, or except to the extent failure to act would not, as deemed by the applicable Grantor in its reasonable business judgment, reasonably be expected to have a Material Adverse Effect, with respect to each registration or pending application of each item of its Intellectual Property for which such Grantor has standing to do so, each Grantor agrees to take, at its expense, all reasonable steps, including, without limitation, in the USPTO, the USCO and any other governmental authority located in the United States, to pursue the registration and maintenance of each Patent, Trademark, or Copyright registration or application now or hereafter included in the Collateral owned by such Grantor that are not Excluded Assets.

(ii) Other than to the extent not prohibited herein or in the Credit Agreement, or with respect to registrations and applications no longer used by or useful to Grantors in the applicable Grantor's business operations, or except as would not, as deemed by the applicable Grantor in its reasonable business judgment, reasonably be expected to have a Material Adverse Effect, no Grantor shall do or permit any act or knowingly omit to do any act whereby any Intellectual Property owned by such Grantor, excluding Excluded Assets, may lapse, be terminated, become invalid or unenforceable or placed in the public domain (or in the case of a trade secret, become publicly known).

(iii) Other than as excluded or as not prohibited herein or in the Credit Agreement, or with respect to Patents, Copyrights or Trademarks which are no longer used by or useful to Grantors in the applicable Grantor's business operations, or except where failure to do so would not, as deemed by the applicable Grantor in its reasonable business judgment, reasonably be expected to have a Material Adverse Effect, each Grantor shall take all reasonable steps to preserve and protect each item of Intellectual Property owned by such Grantor, including, without limitation, maintaining the quality of any and all products or services used or provided in connection with any of the Trademarks owned by such Grantor, consistent with the quality of the products and services as of the Closing Date, and taking reasonable steps necessary to ensure that all licensed users of any of the Trademarks abide by the applicable license's terms with respect to standards of quality.

(iv) Notwithstanding any other provision of this Agreement, nothing in this Agreement or any other Loan Document prevents or shall be deemed to prevent any Grantor from disposing of, discontinuing the use or maintenance of, failing to pursue, or otherwise

allowing to lapse, terminate or be put into the public domain, any of its Intellectual Property to the extent permitted by the Credit Agreement if such Grantor determines in its reasonable business judgment that such disposition of, discontinuance, failure to pursue, or other allowance to lapse, termination, or placement in the public domain is desirable in the conduct of its business.

(v) Within the same delivery period as required for the delivery of the financial statements required to be delivered under Section 6.01(a) and (b) of the Credit Agreement, the Borrower shall provide a list of any Registered Intellectual Property Collateral owned by all Grantors not listed in any Intellectual Property Security Agreement previously delivered to the Administrative Agent, together with supplemental Intellectual Property Security Agreements covering all such Registered Intellectual Property Collateral duly executed by such Grantors and in proper form for recording, and shall promptly file and record such supplemental Intellectual Property Security Agreements with the USPTO or the USCO, as applicable.

(g) *Commercial Tort Claims*. If the Grantors shall at any time hold or acquire a Commercial Tort Claim in an amount reasonably estimated by such Grantor to exceed \$2,500,000 for which this clause has not been satisfied and for which a complaint in a court of competent jurisdiction has been filed, such Grantor shall, on the date on which a Compliance Certificate is delivered to the Administrative Agent pursuant to Section 6.02(a) of the Credit Agreement for the fiscal quarter in which such complaint was filed, notify the Administrative Agent thereof in a writing signed by such Grantor including a summary description of such claim and grant to the Administrative Agent, for the benefit of the Secured Parties, in such writing a second-priority security interest therein and in the proceeds thereof, all upon the terms of this Agreement.

#### ARTICLE 4 REMEDIES

Section 4.01. *Remedies Upon Default*. Upon the occurrence and during the continuance of an Event of Default, it is agreed that the Administrative Agent shall have the right, subject to the terms of the Intercreditor Agreements, to exercise any and all rights afforded to a secured party with respect to the Secured Obligations, including the Guaranteed Obligations, under the UCC or other applicable Law or in equity and also may require each Grantor to, and each Grantor agrees that it will at its expense and upon request of the Administrative Agent, promptly assemble all or part of the Collateral as directed by the Administrative Agent and make it available to the Administrative Agent at a place and time to be designated by the Administrative Agent that is reasonably convenient to both parties; occupy any premises owned or, to the extent lawful and permitted, leased by any of the Grantors where the Collateral or any part thereof is assembled or located for a reasonable period in order to effectuate its rights and remedies hereunder or under Law, without obligation to such Grantor in respect of such occupation; *provided* that the Administrative Agent shall provide the applicable Grantor with written notice thereof prior to such occupancy; exercise any and all rights and remedies of any of the Grantors under or in connection with the Collateral, or otherwise in respect of the Collateral; *provided* that the Administrative Agent shall provide the applicable Grantor with written notice thereof prior to such exercise; and subject to the mandatory requirements of applicable Law and the notice requirements described below, sell or otherwise dispose of all or any part of the Collateral securing the Secured Obligations at a public or private sale or at any

broker's board or on any securities exchange, for cash, upon credit or for future delivery as the Administrative Agent shall deem appropriate. The Administrative Agent shall be authorized (subject to the terms of the Intercreditor Agreements) at any such sale of securities (if it deems it advisable to do so) to restrict the prospective bidders or purchasers to Persons who will represent and agree that they are purchasing the Collateral for their own account for investment and not with a view to the distribution or sale thereof, and upon consummation of any such sale the Administrative Agent shall have the right to assign, transfer and deliver to the purchaser or purchasers thereof the Collateral so sold. Each such purchaser at any sale of Collateral shall hold the property sold absolutely free from any claim or right on the part of any Grantor, and each Grantor hereby waives (to the extent permitted by Law) all rights of redemption, stay and appraisal which such Grantor now has or may at any time in the future have under any Law now existing or hereafter enacted.

The Administrative Agent shall give the applicable Grantors 10 days' written notice (which each Grantor agrees is commercially reasonable notice within the meaning of Section 9-611 of the UCC or its equivalent in other jurisdictions) of the Administrative Agent's intention to make any sale of Collateral. Such notice, in the case of a public sale, shall state the time and place for such sale and, in the case of a sale at a broker's board or on a securities exchange, shall state the board or exchange at which such sale is to be made and the day on which the Collateral, or portion thereof, will first be offered for sale at such board or exchange. Any such public sale shall be held at such time or times within ordinary business hours and at such place or places as the Administrative Agent may fix and state in the notice (if any) of such sale. At any such sale, the Collateral, or portion thereof, to be sold may be sold in one lot as an entirety or in separate parcels, as the Administrative Agent may (in its sole and absolute discretion but subject to the terms of the Intercreditor Agreements) determine. The Administrative Agent shall not be obligated to make any sale of any Collateral if it shall determine not to do so, regardless of the fact that notice of sale of such Collateral shall have been given. The Administrative Agent may, without notice or publication, adjourn any public or private sale or cause the same to be adjourned from time to time by announcement at the time and place fixed for sale, and such sale may, without further notice, be made at the time and place to which the same was so adjourned. In case any sale of all or any part of the Collateral is made on credit or for future delivery, the Collateral so sold may (subject to the terms of the Intercreditor Agreements) be retained by the Administrative Agent until the sale price is paid by the purchaser or purchasers thereof, but the Administrative Agent shall not incur any liability in case any such purchaser or purchasers shall fail to take up and pay for the Collateral so sold and, in case of any such failure, such Collateral may be sold again upon like notice. At any public (or, to the extent permitted by applicable Law, private) sale made pursuant to this Agreement, any Secured Party may bid for or purchase, free (to the extent permitted by applicable Law) from any right of redemption, stay, valuation or appraisal on the part of any Grantor (all said rights being also hereby waived and released to the extent permitted by applicable Law), the Collateral or any part thereof offered for sale and may make payment on account thereof by using any claim then due and payable to such Secured Party from any Grantor as a credit against the purchase price, and such Secured Party may, upon compliance with the terms of sale, hold, retain and dispose of such property without further accountability to any Grantor therefor. For purposes hereof, a written agreement to purchase the Collateral or any portion thereof shall be treated as a sale thereof; the Administrative Agent shall (subject to the terms of the Intercreditor Agreements) be free to carry out such sale pursuant to such agreement and no Grantor shall be entitled to the return of the Collateral or any portion thereof subject thereto, notwithstanding the fact that after the Administrative Agent shall have entered into such an agreement all Events of Default shall have been remedied and the Secured Obligations paid in full. As an alternative to exercising the power of sale herein conferred upon it, the Administrative Agent may (subject to the terms of the Intercreditor Agreements) proceed by a suit or suits at Law

or in equity to foreclose this Agreement and to sell the Collateral or any portion thereof pursuant to a judgment or decree of a court or courts having competent jurisdiction or pursuant to a proceeding by a court-appointed receiver. Any sale pursuant to the provisions of this Section 4.01 shall be deemed to conform to the commercially reasonable standards as provided in Section 9-610(b) of the UCC or its equivalent in other jurisdictions.

Section 4.02. *Application of Proceeds.* The Administrative Agent shall apply the proceeds of any collection or sale of Collateral, including any Collateral consisting of cash in accordance with Section 8.03 of the Credit Agreement and subject to the terms of the Intercreditor Agreements.

The Administrative Agent shall have absolute discretion as to the time of application of any such proceeds, moneys or balances in accordance with this Agreement. Upon any sale of Collateral by the Administrative Agent (including pursuant to a power of sale granted by statute or under a judicial proceeding), the receipt of the Administrative Agent or of the officer making the sale shall be a sufficient discharge to the purchaser or purchasers of the Collateral so sold and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid over to the Administrative Agent or such officer or be answerable in any way for the misapplication thereof.

The Administrative Agent shall have no liability to any of the Secured Parties for actions taken in reliance on information supplied to it as to the amounts of unpaid principal and interest and other amounts outstanding with respect to the Secured Obligations, *provided* that nothing in this sentence shall prevent any Grantor from contesting any amounts claimed by any Secured Party in any information so supplied. All distributions made by the Administrative Agent pursuant to this Section 4.02 shall be final (absent manifest error).

Section 4.03. *Grant of License to Use Intellectual Property.* For the exclusive purpose of enabling the Administrative Agent to exercise rights and remedies under this Agreement at and during the continuance of such time as the Administrative Agent shall be lawfully entitled to exercise such rights and remedies at any time after and during the continuance of an Event of Default, subject to the terms of the Intercreditor Agreements, each Grantor hereby grants to the Administrative Agent a nonexclusive, royalty-free, limited license (exercisable until the termination or cure of the Event of Default) to use, license or sublicense any of the Intellectual Property now owned or hereafter acquired by such Grantor or for which such Grantor has the ability to grant sublicenses, and wherever the same may be located, and including in such license reasonable access to all media in which any of the licensed items may be recorded or stored and to all computer software used for the compilation or printout thereof; *provided, however*, that all of the foregoing rights of the Administrative Agent to use such licenses, sublicenses and other rights, and (to the extent permitted by the terms of such licenses and sublicenses) all licenses and sublicenses granted thereunder, shall expire immediately upon the termination or cure of all Events of Default (together with the Borrower's written notice to the Administrative Agent of such termination or cure) and shall be exercised by the Administrative Agent solely in connection with the Administrative Agent's exercise of remedies pursuant to Section 4.01 and, to the extent reasonably practicable, upon prior written notice to the Borrower, and nothing in this Section 4.03 shall require Grantors to grant any license that is prohibited by any rule of law, statute or regulation, or is prohibited by, or constitutes a breach or default under or results in the termination of any contract, license, agreement, instrument or other document evidencing, giving rise to or theretofore granted, to the extent permitted by the Credit Agreement, with respect to such property or otherwise unreasonably prejudices the value thereof to the relevant Grantor; *provided, further*, that any such license and any such license granted by the Administrative Agent to a third

party shall include reasonable and customary terms and conditions necessary to preserve the existence, validity and enforceability of the affected Intellectual Property, including provisions requiring the continuing confidential handling of trade secrets, requiring the use of appropriate notices and prohibiting the use of false notices, quality control and inurement provisions with regard to Trademarks, patent designation provisions with regard to Patents, copyright notices and restrictions on decompilation and reverse engineering of copyrighted software (it being understood and agreed that, without limiting any other rights and remedies of the Administrative Agent under this Agreement, any other Loan Document or applicable Law, nothing in the foregoing license grant shall be construed as granting the Administrative Agent rights in and to such Intellectual Property above and beyond (x) the rights to such Intellectual Property that each Grantor has reserved for itself and (y) in the case of Intellectual Property that is licensed to any such Grantor by a third party, the extent to which such Grantor has the right to grant a sublicense under such Intellectual Property hereunder). For the avoidance of doubt, the use of such license by the Administrative Agent may be exercised, subject to the terms of the Intercreditor Agreements, at the option of the Administrative Agent, only during the continuance of an Event of Default. Subject to the terms of the Intercreditor Agreements, upon the occurrence and during the continuance of an Event of Default, the Administrative Agent may also exercise the rights afforded under Section 4.01 of this Agreement with respect to Intellectual Property contained in the Article 9 Collateral.

Section 4.04. *Effect of Securities Laws.* Each Grantor recognizes that the Administrative Agent may be unable to effect a public sale of any or all of the Pledged Collateral by reason of certain prohibitions contained in the Securities Act and applicable state securities laws or otherwise, and may be compelled to resort to one or more private sales thereof to a restricted group of purchasers which will be obliged to agree, among other things, to acquire such securities for their own account for investment and not with a view to the distribution or resale thereof. Each Grantor acknowledges and agrees that any such private sale may result in prices and other terms less favorable than if such sale were a public sale and, notwithstanding such circumstances, agrees that any such private sale shall be deemed to have been made in a commercially reasonable manner. The Administrative Agent shall be under no obligation to delay a sale of any of the Pledged Collateral for the period of time necessary to permit the applicable issuer thereof to register such securities for public sale under the Securities Act, or under applicable state securities laws, even if such issuer would agree to do so.

Section 4.05. *Deficiency.* Each Grantor shall remain liable for any deficiency if the proceeds of any sale or other disposition of the Collateral are insufficient to pay its Secured Obligations and, to the extent set forth herein and in the other Loan Documents, the fees and disbursements of any attorneys employed by any Secured Party to collect such deficiency.

Section 4.06. *FCC Authorizations; Related Collateral.*

(a) The Administrative Agent's rights hereunder (and the rights of any receiver appointed by reason of the exercise of remedies hereunder) with respect to the FCC Authorizations and any Collateral subject to such FCC Authorizations, as applicable, are expressly subject to, and limited by any obligations and/or restrictions imposed by, the Communications Act.

(b) Notwithstanding anything to the contrary contained in this Agreement, but without waiving or limiting any obligations of any Grantor hereunder, neither the Administrative Agent nor any receiver appointed by reason of the exercise of remedies hereunder shall control, supervise, direct, or manage, or attempt to control, supervise, direct, or manage, the business of any Grantor, in any case that would constitute or result in any assignment of any FCC Authorization or a direct

or indirect transfer of control of any Grantor, or any FCC Authorization, whether de jure or de facto, if such assignment or such direct or indirect transfer of control would require, under the Communications Act, the prior approval of the FCC or any other Governmental Authority without first obtaining such approval.

(c) Subject to the terms and conditions herein, each Grantor agrees to take any lawful action with respect to requesting and obtaining any approvals from any Governmental Authority that may be required by Law which the Administrative Agent may reasonably request in order to obtain and enjoy the full rights and benefits granted to the Administrative Agent and the Secured Parties by this Agreement, including, specifically, after the occurrence and during the continuance of any Event of Default and an exercise of the Administrative Agent's remedies hereunder, such Grantor's full cooperation in lawfully obtaining any approval of the FCC and of any other Governmental Authority that is then required under the Communications Act or any other Law for the exercise of the Administrative Agent's remedies under this Agreement.

## ARTICLE 5 SUBORDINATION

### Section 5.01. *Subordination.*

(a) Notwithstanding any provision of this Agreement to the contrary, all rights of the Grantors to indemnity, contribution or subrogation under applicable Law or otherwise shall be fully subordinated to the payment in full of the Obligations (other than contingent indemnification obligations as to which no claim has been asserted). No failure on the part of the Borrower or any other Grantor to make the payments required under applicable Law or otherwise shall in any respect limit the obligations and liabilities of any Grantor with respect to its obligations hereunder, and each Grantor shall remain liable for the full amount of the Obligations of such Grantor hereunder.

(b) Each Grantor hereby agrees that upon the occurrence and during the continuance of an Event of Default and after written notice from the Administrative Agent, all Indebtedness owed to it by any other Grantor shall be fully subordinated to the payment in full of the Obligations (other than contingent indemnification obligations as to which no claim has been asserted).

## ARTICLE 6 MISCELLANEOUS

Section 6.01. *Notices.* All communications and notices hereunder shall (except as otherwise expressly permitted herein) be in writing and given as provided in Section 10.02 of the Credit Agreement. All communications and notices hereunder to the Borrower or any other Grantor shall be given to it in care of the Borrower as provided in Section 10.02 of the Credit Agreement.

### Section 6.02. *Waivers; Amendment.*

(a) No failure or delay by any Secured Party 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 such 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 of the Secured Parties herein provided, and provided under each other Loan Document, are cumulative and are not exclusive of any rights, remedies, powers and privileges provided by Law. No waiver of any provision of this Agreement or consent to any departure by any Grantor therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section 6.02, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan shall not be construed as a waiver of any Default or Event of Default, regardless of whether any Secured Party may have had notice or knowledge of such Default or Event of Default at the time.

(b) Neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Administrative Agent and the Grantor or Grantors with respect to which such waiver, amendment or modification is to apply, subject to the Collateral and Guarantee Requirement and any consent required in accordance with Section 10.01 of the Credit Agreement. Notwithstanding the foregoing, this Agreement and the provisions hereof shall be subject to amendment, modification, waiver or consent to the extent required pursuant to the terms of the Closing Date Intercreditor Agreement.

Section 6.03. *Administrative Agent's Fees and Expenses; Indemnification.*

(a) The parties hereto agree that the Administrative Agent shall be entitled to reimbursement of its reasonable and documented out-of-pocket expenses incurred hereunder and indemnity for its actions in connection herewith as provided in Sections 10.04 and 10.05 of the Credit Agreement.

(b) Any such amounts payable as provided hereunder shall be additional Secured Obligations secured hereby and by the other Collateral Documents. The provisions of this Section 6.03 shall remain operative and in full force and effect regardless of the termination of this Agreement or any other Loan Document, the consummation of the transactions contemplated hereby, the repayment of any of the Secured Obligations, the invalidity or unenforceability of any term or provision of this Agreement or any other Loan Document, or any investigation made by or on behalf of the Administrative Agent or any other Secured Party. All amounts due under this Section 6.03 shall be payable within 30 days of written demand therefor (including documentation reasonably supporting such request).

Section 6.04. *Successors and Assigns.* The provisions of this Agreement shall be binding upon and inure to the benefit of the parties here to and their respective successors and assigns.

Section 6.05. *Survival of Agreement.* All covenants, agreements, representations and warranties made by the Grantors hereunder and in the other Loan Documents and in the certificates or other instruments prepared or delivered in connection with or pursuant to this Agreement shall be considered to have been relied upon by the Secured Parties and shall survive the execution and delivery of the Loan Documents and the making of any Loans, regardless of any investigation made

by any Secured Party or on its behalf and notwithstanding that any Secured Party may have had notice or knowledge of any Default or Event of Default at the time any credit is extended under the Credit Agreement, and shall continue in full force and effect as long as this Agreement has not been terminated or released pursuant to Section 6.11 below.

Section 6.06. *Counterparts; Effectiveness; Several Agreement.* This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery by facsimile or other electronic communication of an executed counterpart of a signature page to this Agreement shall be effective as delivery of an original executed counterpart of this Agreement. This Agreement shall become effective as to any Grantor when a counterpart hereof executed on behalf of such Grantor shall have been delivered to the Administrative Agent and a counterpart hereof shall have been executed on behalf of the Administrative Agent, and thereafter shall be binding upon such Grantor and the Administrative Agent and their respective permitted successors and assigns, and shall inure to the benefit of such Grantor, the Administrative Agent and the other Secured Parties and their respective permitted successors and assigns, except that no Grantor shall have the right to assign or transfer its rights or obligations hereunder or any interest herein (and any such assignment or transfer shall be void) without the prior written consent of the Administrative Agent, except to the extent permitted by the Credit Agreement. This Agreement shall be construed as a separate agreement with respect to each Grantor and may be amended, restated, modified, supplemented, waived or released with respect to any Grantor without the approval of any other Grantor and without affecting the obligations of any other Grantor hereunder.

Section 6.07. *Severability.* If any provision of this Agreement is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected or impaired thereby. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 6.08. *Governing Law; Jurisdiction; Venue; Waiver of Jury Trial; Consent to Service of Process*

(a) The terms of Sections 10.15 and 10.16 of the Credit Agreement with respect to governing law, submission of jurisdiction, venue and waiver of jury trial are incorporated herein by reference, *mutatis mutandis*, and the parties hereto agree to such terms.

(b) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 6.01. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by Law.

Section 6.09. *Headings.* Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

Section 6.10. *Security Interest Absolute.* To the extent permitted by Law, all rights of the Administrative Agent hereunder, the Security Interest, the grant of a security interest in the Collateral and all obligations of each Grantor hereunder shall be absolute and unconditional irrespective of any lack of validity or enforceability of the Credit Agreement, any other Loan Document, any agreement with respect to any of the Secured Obligations or any other agreement or instrument relating to any of the foregoing, any change in the time, manner or place of payment of, or in any

other term of, all or any of the Secured Obligations, or any other amendment or waiver of or any consent to any departure from the Credit Agreement, any other Loan Document or any other agreement or instrument, any exchange, release or non-perfection of any Lien on other collateral, or any release or amendment or waiver of or consent under or departure from any guarantee, securing or guaranteeing all or any of the Secured Obligations or any other circumstance that might otherwise constitute a defense (other than defense of payment or performance) available to, or a discharge of, any Grantor in respect of the Secured Obligations or this Agreement.

Section 6.11. *Termination, Release or Subordination.*

(a) This Agreement (other than with respect to provisions hereof that expressly survive termination), the Security Interest and all other security interests granted hereby shall terminate with respect to all Secured Obligations and any Liens arising therefrom shall be automatically released upon termination of the Aggregate Commitments and payment in full of all Secured Obligations and the expiration or termination of all Letters of Credit (other than, in each case, contingent indemnification obligations as to which no claim has been asserted).

(b) A Subsidiary Party shall automatically be released from its obligations hereunder and the Security Interest and any Liens granted herein to the Administrative Agent in the Collateral of such Subsidiary Party shall be automatically released upon the consummation of any transaction permitted by and in accordance with the terms of the Credit Agreement as a result of which such Subsidiary Party ceases to be a Restricted Subsidiary of the Borrower or becomes an Excluded Subsidiary.

(c) Upon any Disposition by any Grantor of any Collateral that is permitted under and in accordance with the terms of the Credit Agreement (other than a sale or transfer to another Loan Party), or upon the effectiveness of any written consent to the release of the security interest granted hereby in any Collateral pursuant to Section 10.01 of the Credit Agreement, the security interest in such Collateral shall be automatically released.

(d) The security interest granted hereby in any Collateral shall be subordinated to another Lien permitted by Section 7.01 of the Credit Agreement to be senior to the Liens securing the Secured Obligations, in accordance with the terms of Section 9.10(c) of the Credit Agreement, either (i) upon an election by the Administrative Agent to subordinate such security interest or (ii) in respect of Liens permitted by Sections 7.01(b), (u), (w) (with respect to assumed Indebtedness), (aa) (with respect to Sections 7.01(b) and (u) of the Credit Agreement) and (bb) of the Credit Agreement, upon Borrower's reasonable request (with Administrative Agent's consent, not to be unreasonably withheld, delayed or conditioned).

(e) The security interest granted hereby in any Collateral shall automatically be released to the extent required pursuant to the terms of the Closing Date Intercreditor Agreement.

(f) In connection with any termination or release pursuant to paragraph (a), (b), (c) or (d) of this Section 6.11, the Administrative Agent shall execute and deliver to any Grantor, at such Grantor's expense, all documents that such Grantor shall reasonably request

to evidence such termination or release and shall perform such other actions reasonably requested by such Grantor to effect such release, including delivery of certificates, securities and instruments. Any execution and delivery of documents pursuant to this Section 6.11 shall be without recourse to or warranty by the Administrative Agent.

Section 6.12. *Additional Grantors.* Pursuant to Section 6.11 of the Credit Agreement, certain additional Restricted Subsidiaries of the Grantors may be required to enter in this Agreement as Grantors. Upon execution and delivery by the Administrative Agent and a Restricted Subsidiary of a Security Agreement Supplement, such Restricted Subsidiary shall become a Grantor hereunder with the same force and effect as if originally named as a Grantor herein. The execution and delivery of any such instrument shall not require the consent of any other Grantor hereunder, except to the extent obtained on or prior to such date and in full force and effect on such date. The rights and obligations of each Grantor hereunder shall remain in full force and effect notwithstanding the addition of any new Grantor as a party to this Agreement.

Section 6.13. *Administrative Agent Appointed Attorney-in-Fact* Subject to the terms of the Intercreditor Agreements, each Grantor hereby appoints the Administrative Agent the attorney-in-fact of such Grantor for the purpose of carrying out the provisions of this Agreement and taking any action and executing any instrument that the Administrative Agent may deem necessary or advisable to accomplish the purposes hereof, in each case, at any time after the occurrence and during the continuance of an Event of Default, which appointment is irrevocable and coupled with an interest. Without limiting the generality of the foregoing, subject to the terms of the Intercreditor Agreements, the Administrative Agent shall have the right, after the occurrence and during the continuance of an Event of Default and, to the extent reasonably practicable, notice by the Administrative Agent to the applicable Grantor of the Administrative Agent's intent to exercise such rights, with full power of substitution either in the Administrative Agent's name or in the name of such Grantor to receive, endorse, assign and/or deliver any and all notes, acceptances, checks, drafts, money orders or other evidences of payment relating to the Collateral or any part thereof; to demand, collect, receive payment of, give receipt for and give discharges and releases of all or any of the Collateral; to sign the name of any Grantor on any invoice or bill of lading relating to any of the Collateral; upon prior written notice to the Borrower, to send verifications of accounts receivable to any Account Debtor; to commence and prosecute any and all suits, actions or proceedings at Law or in equity in any court of competent jurisdiction to collect or otherwise realize on all or any of the Collateral or to enforce any rights in respect of any Collateral; to settle, compromise, compound, adjust or defend any actions, suits or proceedings relating to all or any of the Collateral; upon prior written notice to the Borrower, to notify, or to require the Borrower or any Grantor to notify, Account Debtors to make payment directly to the Administrative Agent; upon prior written notice to the Borrower, to otherwise communicate with any Account Debtor; to make, settle and adjust claims in respect of Collateral under policies of insurance, endorse the name of such Grantor on any check, draft, instrument or other item of payment for the proceeds of such policies of insurance; to make all determinations and decisions with respect to policies of insurance; to obtain or maintain the policies of insurance required by Section 6.07 of the Credit Agreement or to pay any premium in whole or in part relating thereto; and except as prohibited by the Communications Act as an unauthorized transfer of control, to use, sell, assign, transfer, pledge, make any agreement with respect to or otherwise deal with all or any of the Collateral, and to do all other acts and things necessary to carry out the purposes of this Agreement, as fully and completely as though the Administrative Agent were the absolute owner of the Collateral for all purposes; *provided* that nothing herein contained shall be construed as requiring or obligating the Administrative Agent to make any commitment or to make any inquiry as to the nature or sufficiency of any payment received by the

Administrative Agent, or to present or file any claim or notice, or to take any action with respect to the Collateral or any part thereof or the moneys due or to become due in respect thereof or any property covered thereby. The Administrative Agent and the other Secured Parties shall be accountable only for amounts actually received as a result of the exercise of the powers granted to them herein, and neither they nor their officers, directors, employees or agents shall be responsible to any Grantor for any act or failure to act hereunder, except for their own gross negligence, bad faith, willful misconduct, or material breach of this Agreement or that of any of their Affiliates, directors, officers, employees, partners, advisors, counsel, agents, attorneys-in-fact or other representatives, in each case, as determined by a final non-appealable judgment of a court of competent jurisdiction. All sums disbursed by the Administrative Agent in connection with this paragraph shall be payable pursuant to the terms of Section 10.04 of the Credit Agreement.

Section 6.14. *General Authority of the Administrative Agent.* By acceptance of the benefits of this Agreement and any other Collateral Documents, each Secured Party (whether or not a signatory hereto) shall be deemed irrevocably to consent to the appointment of the Administrative Agent as its agent hereunder and under such other Collateral Documents, to confirm that the Administrative Agent shall have the authority to act as the exclusive agent of such Secured Party for the enforcement of any provisions of this Agreement and such other Collateral Documents against any Grantor, the exercise of remedies hereunder or thereunder and the giving or withholding of any consent or approval hereunder or thereunder relating to any Collateral or any Grantor's obligations with respect thereto, to agree that it shall not take any action to enforce any provisions of this Agreement or any other Collateral Document against any Grantor, to exercise any remedy hereunder or thereunder or to give any consents or approvals hereunder or thereunder except as expressly provided in this Agreement or any other Collateral Document and to agree to be bound by the terms of this Agreement and any other Collateral Documents.

Section 6.15. *Reasonable Care.* The Administrative Agent is required to use reasonable care in the custody and preservation of any of the Collateral in its possession; *provided*, that the Administrative Agent shall be deemed to have used reasonable care in the custody and preservation of any of the Collateral, if such Collateral is accorded treatment substantially similar to that which the Administrative Agent accords its own property.

Section 6.16. *Delegation; Limitation.* The Administrative Agent may execute any of the powers granted under this Agreement and perform any duty hereunder either directly or by or through agents or attorneys-in-fact, and shall not be responsible for the gross negligence or willful misconduct of any agents or attorneys-in-fact selected by it with reasonable care and without gross negligence or willful misconduct.

Section 6.17. *Reinstatement.* The obligations of the Grantors under this Agreement shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of the Borrower or other Loan Party in respect of the Secured Obligations is rescinded or must be otherwise restored by any holder of any of the Secured Obligations, whether as a result of any proceedings in bankruptcy or reorganization or otherwise.

Section 6.18. *Intercreditor Agreements.* Notwithstanding anything herein to the contrary, the priority of the Liens and the Security Interest granted to the Administrative Agent pursuant to this Agreement and the exercise of any right or remedy by the Administrative Agent hereunder, are subject in all respects to the provisions of the Intercreditor Agreements. In the event of any conflict between the terms of any Intercreditor Agreement and this Agreement with respect to the priority

of the Liens and the Security Interest granted to the Administrative Agent pursuant to this Agreement or with respect to the exercise of any right or remedy by the Administrative Agent hereunder, the terms of such Intercreditor Agreement shall govern and control.

Section 6.19. *Obligations of Grantors.* The terms and conditions of this Agreement are subject to the terms and conditions of the Intercreditor Agreements. Notwithstanding anything to the contrary in this Agreement, prior to the Discharge (as defined in the Closing Date Intercreditor Agreement) of the First Lien Secured Obligations (as defined in the Closing Date Intercreditor Agreement), any obligation of any Grantor in this Agreement that requires (or any representation or warranty hereunder to the extent that it would have the effect of requiring) delivery of Collateral (including any endorsements related thereto) to, or the possession or control of Collateral by, the Administrative Agent, shall be deemed complied with and satisfied (or, in the case of any representation or warranty hereunder, shall be deemed to be true) if such delivery of Collateral is made to, or such possession or control of Collateral is with, the First Lien Administrative Agent or Designated First Lien Representative.

[Signature Pages Follow]

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

EMERGING MARKETS COMMUNICATIONS, LLC as  
Borrower

EMC ACQUISITION, LLC

SCISCO PARENT, INC.

SEAMOBILE, INC.

MARITEL HOLDINGS, INC.

MARITIME TELECOMMUNICATIONS NETWORK, INC.

MTN GOVERNMENT SERVICES, INC.

MTN LICENSE CORP.

MTN INTERNATIONAL, INC.

By: /s/ Abel Avellan  
Name: Abel Avellan

Title: Chief Executive Officer

*[Signature Page to Second Lien Security Agreement]*

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EMC-JV HOLDCO LLC

By: /s/ James Scola

Name: James Scola

Title: Assistant Secretary

*[Signature Page to Second Lien Security Agreement]*

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MORGAN STANLEY SENIOR FUNDING, INC., as  
Administrative Agent

By: /s/ Andrew Earls

Name: Andrew Earls

Title: Authorized Signatory

*[Signature Page to Second Lien Security Agreement]*

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## AMENDMENT NO. 1 TO SECOND LIEN SECURITY AGREEMENT

THIS AMENDMENT NO. 1 TO SECOND LIEN SECURITY AGREEMENT, dated as of May 9, 2010 (this "Agreement"), is made by and among the Grantors party hereto and Morgan Stanley Senior Funding, Inc., as administrative agent (in such capacity, the "Administrative Agent").

### WITNESSETH:

WHEREAS, EMC Acquisition, LLC, a Delaware limited liability company ("Holdings"), Emerging Markets Communications, LLC, a Delaware limited liability company (the "Borrower"), certain Subsidiaries of the Borrower and the Administrative Agent have entered into that certain Second Lien Security Agreement, dated as of July 1, 2015 (as amended, restated, amended and restated, supplemented or otherwise modified prior to the date hereof, the "Existing Security Agreement"; the Existing Security Agreement, as amended by this Agreement, the "Security Agreement"; all capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Security Agreement unless the context otherwise requires);

WHEREAS, Global Eagle Entertainment Inc., a Delaware corporation, intends to acquire (the "EMC Acquisition") 100% of the issued and outstanding membership interests of EMC Intermediate, LLC, a Delaware limited liability company and direct parent of Holdings; and

WHEREAS, in connection with the EMC Acquisition, Holdings, the Borrower, the Guarantors party thereto, the Lenders party thereto and the Administrative Agent entered into that certain Amendment No. 1 to Second Lien Credit Agreement, dated as of May 9, 2016 (the "Credit Agreement Amendment"), which, subject to the satisfaction of certain conditions precedent described therein, amends that certain Second Lien Credit Agreement, dated as of July 1, 2015 (as amended by the Credit Agreement Amendment, and as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Holdings, the Borrower, the other Guarantors from time to time party thereto, the Lenders party thereto and the Administrative Agent;

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein contained, the Loan Parties and the Administrative Agent hereby agree as follows:

### ARTICLE 1

#### AMENDMENT OF EXISTING SECURITY AGREEMENT

SECTION 1.1 Subject solely to the satisfaction of the condition set forth in Article II hereof, the Existing Security Agreement is hereby amended as follows:

(a) The definition of "Grantor" in Section 1.01 of the Existing Security Agreement is hereby deleted in its entirety and replaced with the following:

“**Grantor**” means Parent, the Borrower, each Guarantor that is a party hereto, and each Guarantor that becomes a party to this Agreement after the Closing Date.”

(b) The following definitions are added to Section 1.01 of the Existing Security Agreement in alphabetical order:

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“**Bail-In Action**” means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

“**Bail-In Legislation**” means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

“**EEA Financial Institution**” means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent;

“**EEA Member Country**” means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

“**EEA Resolution Authority**” means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

“**EU Bail-In Legislation Schedule**” means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

“**Parent**” shall mean Global Eagle Entertainment Inc., a Delaware corporation.

“**Write-Down and Conversion Powers**” means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.”

(c) Section 2.01(i)(B)(2) of the Security Agreement is hereby amended and restated as follows:

“any Restricted Subsidiary that is a wholly owned Foreign Subsidiary that is directly owned by Parent, Holdings, the Borrower or by any Subsidiary Guarantor of Parent;”

(d) The references to “the Borrower” in Section 2.04 and Section 6.11(b) of the Existing Security Agreement is hereby replaced by “Parent”.

(e) The first sentence of Section 6.12 of the Existing Security Agreement is hereby replaced with the following:

“Pursuant to Section 6.11 of the Credit Agreement, certain additional Guarantors may be required to enter in this Agreement as Grantors.”

(f) Section 6.19 is hereby added to the Existing Security Agreement as follows:

**“SECTION 6.19 Acknowledgement and Consent to Bail-in of EEA Financial Institutions.** Notwithstanding anything to the contrary in this Agreement or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under this Agreement, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

- (b) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and
- (c) the effects of any Bail-in Action on any such liability, including, if applicable:
  - (i) a reduction in full or in part or cancellation of any such liability;
  - (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or
  - (iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.”

## ARTICLE II

### CONDITIONS TO EFFECTIVENESS

This Agreement shall be binding on the parties hereto on the date the Administrative Agent has confirmed receipt of counterparts of this Agreement duly executed and delivered by (i) the Grantors and (ii) Holdings, the Borrower and each Grantor that is a Subsidiary of Holdings.

## ARTICLE III

### MISCELLANEOUS

SECTION 3.1 Full Force and Effect; Amendment. Except as expressly provided herein, this Agreement shall not by implication or otherwise limit, impair, constitute a waiver of, or otherwise affect the rights and remedies of the Administrative Agent or the Lenders under the Existing Security Agreement or any other Loan Document, and shall not alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the Existing Security Agreement or any other Loan Document, all of which are ratified and affirmed in all respects and shall continue in full force and effect.

Nothing herein shall be deemed to entitle any Loan Party to a consent to, or a waiver, amendment, modification or other change of, any of the terms, conditions, obligations, covenants or agreements contained in the Existing Security Agreement or any other Loan Document in similar or different circumstances.

SECTION 3.2 Loan Document Pursuant to Credit Agreement. **THIS AGREEMENT IS A LOAN DOCUMENT EXECUTED PURSUANT TO THE CREDIT AGREEMENT AND SHALL BE CONSTRUED, ADMINISTERED AND APPLIED IN ACCORDANCE WITH ALL OF THE TERMS AND PROVISIONS OF THE CREDIT AGREEMENT, INCLUDING, WITHOUT LIMITATION, THE PROVISIONS RELATING TO FORUM SELECTION, CONSENT TO JURISDICTION AND WAIVER OF JURY TRIAL INCLUDED IN SECTION 10.16 OF THE CREDIT AGREEMENT, WHICH PROVISIONS ARE HEREBY ACKNOWLEDGED AND CONFIRMED BY EACH OF THE PARTIES HERETO.**

SECTION 3.3 Headings. The various headings of this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Agreement or any provisions hereof.

SECTION 3.4 Execution in Counterparts. This Agreement may be executed by the parties hereto in counterparts, each of which shall be deemed to be an original and all of which shall constitute together but one and the same agreement. Delivery by facsimile or other electronic transmission of an executed counterpart of a signature page to this Agreement shall be effective as delivery of an original executed counterpart of this Agreement.

SECTION 3.5 Cross-References. References in this Agreement to any Article or Section are, unless otherwise specified or otherwise required by the context, to such Article or Section of this Agreement.

SECTION 3.6 Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such provision and such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

SECTION 3.7 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

SECTION 3.8 **GOVERNING LAW**. **THIS AGREEMENT SHALL BE DEEMED TO BE A CONTRACT MADE UNDER AND GOVERNED BY THE LAW OF THE STATE OF NEW YORK, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.**

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

EMERGING MARKETS COMMUNICATIONS, LLC, as  
Borrower

By: /s/ Thomas E. Severson  
Name: Thomas E. Severson  
Title: Chief Financial Officer

EMC ACQUISITION, LLC

By: /s/ Thomas E. Severson  
Name: Thomas E. Severson  
Title: Chief Financial Officer

SCISCO PARENT, INC.

By: /s/ Thomas E. Severson  
Name: Thomas E. Severson  
Title: Chief Financial Officer

SEAMOBILE INC.

By: /s/ Thomas E. Severson  
Name: Thomas E. Severson  
Title: Chief Financial Officer

MARITEL HOLDINGS, INC.

By: /s/ Thomas E. Severson  
Name: Thomas E. Severson  
Title: Chief Financial Officer

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MARITIME TELECOMMUNICATIONS NETWORK,  
INC.

By: /s/ Thomas E. Severson  
Name: Thomas E. Severson  
Title: Chief Financial Officer

MTN GOVERNMENT SERVICES, INC.

By: /s/ Thomas E. Severson  
Name: Thomas E. Severson  
Title: Chief Financial Officer

MTN LICENSE CORP.

By: /s/ Thomas E. Severson  
Name: Thomas E. Severson  
Title: Chief Financial Officer

MTN INTERNATIONAL, INC.

By: /s/ Thomas E. Severson  
Name: Thomas E. Severson  
Title: Chief Financial Officer

EMC-JV HOLDCO LLC

By: /s/ Thomas E. Severson  
Name: Thomas E. Severson  
Title: Chief Financial Officer

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MORGAN STANLEY SENIOR FUNDING, INC., as  
Administrative Agent

By: /s/ Reagan Philipp

Name: Reagan Philipp

Title: Authorized Signatory

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## SECOND LIEN SECURITY AGREEMENT SUPPLEMENT

SECOND LIEN SECURITY AGREEMENT SUPPLEMENT, dated as of July 27, 2016 (this “**Security Agreement Supplement**”), made by Global Eagle Entertainment Inc., a Delaware corporation (“**Parent**”), and each entity listed on Schedule 1 hereto (the “**Subsidiary Grantors**” and, together with Parent, each an “**Additional Grantor**” and, collectively, the “**Additional Grantors**”), in favor of Morgan Stanley Senior Funding, Inc., as Administrative Agent for the Secured Parties (in such capacity and together with its successors and permitted assigns, the “**Administrative Agent**”). Capitalized terms not defined herein shall have the meaning assigned to such terms in the Security Agreement (as defined below).

### WITNESSETH:

WHEREAS, EMC Acquisition, LLC, a Delaware limited liability company, Emerging Markets Communications, LLC, a Delaware limited liability company, the other Guarantors party thereto from time to time, Morgan Stanley Senior Funding, Inc., as the Administrative Agent, and each lender from time to time party thereto (collectively, the “**Lenders**” and, individually, a “**Lender**”), have entered into that certain Second Lien Credit Agreement, dated as of July 1, 2015, as amended by that certain Amendment No. 1 to Second Lien Credit Agreement (the “**First Amendment**”), dated May 9, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”);

WHEREAS, in connection with the Credit Agreement, Holdings, the Borrower, certain Subsidiaries of the Borrower and the Administrative Agent have entered into that certain Second Lien Security Agreement, dated as of July 1, 2015, as amended by that certain Amendment No. 1 to Second Lien Security Agreement, dated as of the date hereof (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Security Agreement**”);

WHEREAS, the Credit Agreement requires each Additional Grantor to become a party to the Security Agreement; and

WHEREAS, each Additional Grantor has agreed to execute and deliver this Security Agreement Supplement in order to become a party to the Security Agreement;

NOW, THEREFORE, IT IS AGREED:

1. **SECURITY AGREEMENT.** By executing and delivering this Security Agreement Supplement, each Additional Grantor, as provided in Section 6.12 of the Security Agreement, hereby (i) becomes a party to the Security Agreement as a Grantor thereunder with the same force and effect as if originally named therein as a Grantor and, without limiting the generality of the foregoing, hereby expressly assumes all obligations and liabilities of a Grantor thereunder and (ii) grants to the Administrative Agent for the benefit of the Secured Parties, a security interest in all of such Additional Grantor’s right, title and interest in, to and under all Collateral, as security for the Secured Obligations. The information set forth in Annex 1-A is hereby added to the information set forth in Schedules I and II to the Security Agreement. Each Additional Grantor hereby represents and warrants that each of the representations and warranties contained in Section 3.02 of the Security Agreement is true and correct on and as the date hereof (after giving effect to this Security Agreement Supplement) as if made on and as of such date, *provided* that, to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct as of such earlier date.

2. Subject to Section 6.15 of the Security Agreement, each Grantor hereby irrevocably authorizes the Administrative Agent for the benefit of the Secured Parties at any time and from time to time

to file in any relevant jurisdiction any financing statements with respect to the Collateral or any part thereof and amendments thereto and continuations thereof that (i) indicate the Collateral as “all assets of the debtor, whether now existing or hereafter arising” or words of similar effect as being of an equal or lesser scope or with greater detail and (ii) contain the information required by Article 9 of the UCC or the analogous legislation of each applicable jurisdiction for the filing of any financing statement or amendment, including whether such Grantor is an organization, the type of organization and, if required, any organizational identification number issued to such Grantor. Each Grantor agrees to provide such information to the Administrative Agent promptly upon any reasonable request.

3. INTERCREDITOR AGREEMENT. Notwithstanding anything herein to the contrary, the Liens and the Security Interest granted to the Administrative Agent pursuant to this Agreement and the exercise of any right or remedy by the Administrative Agent hereunder are subject in all respects to the provisions of the Intercreditor Agreements. In the event of any conflict between the terms of any Intercreditor Agreement and this Agreement, the terms of such Intercreditor Agreement shall govern and control.

4. **GOVERNING LAW. THIS SECURITY AGREEMENT SUPPLEMENT AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON OR ARISING OUT OF THIS SECURITY AGREEMENT SUPPLEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.**

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the undersigned have caused this Security Agreement Supplement to be duly executed and delivered by its authorized officer as of the date first above written.

**GLOBAL EAGLE ENTERTAINMENT INC.**

By: /s/ David Davis  
Name: David Davis  
Title: Chief Executive Officer

**AIRLINE MEDIA PRODUCTIONS, INC.**

By: /s/ David Davis  
Name: David Davis  
Title: Chief Executive Officer

**ENTERTAINMENT IN MOTION, INC.**

By: /s/ David Davis  
Name: David Davis  
Title: Chief Executive Officer

**GLOBAL EAGLE ENTERTAINMENT OPERATIONS SOLUTIONS, INC.**

By: /s/ David Davis  
Name: David Davis  
Title: Chief Executive Officer

**EMC INTERMEDIATE, LLC**

By: /s/ David Davis  
Name: David Davis  
Title: Chief Executive Officer

---

**INFLIGHT PRODUCTIONS USA INC.**

By: /s/ David Davis  
Name: David Davis  
Title: Chief Executive Officer

**POST MODERN EDIT, INC.**

By: /s/ David Davis  
Name: David Davis  
Title: Chief Executive Officer

**THE LAB AERO, INC.**

By: /s/ David Davis  
Name: David Davis  
Title: Chief Executive Officer

**ROW 44, INC.**

By: /s/ David Davis  
Name: David Davis  
Title: Chief Executive Officer

---

**N44HQ, LLC**

By: /s/ David Davis

Name: David Davis

Title: Chief Executive Officer

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**Schedule 1**

**SUBSIDIARY GRANTORS**

<b>Subsidiary Guarantor</b>	<b>Jurisdiction of Formation/Organization</b>
Global Eagle Entertainment Operations Solutions, Inc.	Delaware
EMC Intermediate, LLC	Delaware
Entertainment in Motion, Inc.	California
Inflight Productions USA Inc.	California
The Lab Aero, Inc.	California
Post Modern Edit, Inc.	Delaware
Row 44, Inc.	Delaware
Airline Media Productions, Inc.	Delaware
N44HQ, LLC	Delaware

**ANNEX 1-A**

See attached.

## **Schedule I**

### **Subsidiary Parties**

- Global Eagle Entertainment Operations Solutions, Inc.
  - EMC Intermediate, LLC
  - Entertainment In Motion, Inc.
  - Inflight Productions USA Inc.
  - Post Modern Edit, Inc.
  - Row 44, Inc.
  - Airline Media Productions, Inc.
  - The Lab Aero, Inc.
  - N44HQ, LLC
-

**Schedule II**

**Pledged Equity and Pledged Debt**

**Equity Interests of Companies and Subsidiaries**

Record Owner	Current Legal Entities Owned	Certificate No. <sup>1</sup>	No. Shares/Interest	Percent Pledged
Global Eagle Entertainment, Inc.	Global Eagle Entertainment Luxembourg I S.a r.l.	uncertificated	13,000	65%
	Global Eagle Entertainment Operations Solutions, Inc.	1	100	100%
	EMC Intermediate, LLC	uncertificated	100	100%
	Entertainment in Motion, Inc.	8	200	100%
	Inflight Productions USA Inc.	2	100	100%
	Post Modern Edit, Inc.	2	1,000	100%
	Row 44, Inc.	82	1,000	100%
	Airline Media Productions, Inc.	2	1,000	100%
Inflight Productions USA Inc.	The Lab Aero, Inc.	2	1,000	100%
Row 44, Inc.	N44HQ, LLC	1	100% Membership Interest	100%
	32221777 Nova Scotia Limited	3	65	65%
	Row44 Russia LLC	N/A	N/A	N/A

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<sup>1</sup> Certificate numbers for certificates evidencing Pledged Equity of Foreign Subsidiaries that are Immaterial Subsidiaries are not provided and are marked "N/A".

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## Debt Interests of Companies and Subsidiaries

### Promissory Notes

- 1) Intercompany Note, dated as of January 31, 2013, as amended by that certain Amendment to Promissory Note, dated January 27, 2016, in an initial principal amount of \$55,000,000.00, between Global Eagle Entertainment, Inc., as the Lender, and Global Eagle Entertainment Luxembourg II S.à.r.l., as the Borrower (outstanding balance of \$16,327,362.99 as of December 31, 2015).
  - 2) Intercompany Note, dated as of February 8, 2013, as amended by that certain Amendment to Promissory Note, dated as of January 27, 2016, in an initial principal amount of \$26,155,000.00, between Global Eagle Entertainment, Inc., as the Lender, and Global Eagle Entertainment Luxembourg II S.à.r.l., as the Borrower (outstanding balance of \$26,722,527.69 as of December 31, 2015).
  - 3) Intercompany Note, dated as of March 7, 2014, in an initial principal amount of \$36,245,950.00, between Global Eagle Entertainment, Inc., as the Lender, and Global Eagle Entertainment Luxembourg II S.à.r.l., as the Borrower (outstanding balance of \$36,844,752.94 as of December 31, 2015).
  - 4) Intercompany Note, dated as of September 11, 2014, in an initial principal amount of \$541,840.00, between Global Eagle Entertainment, Inc., as the Lender, and Global Eagle Entertainment Luxembourg II S.à.r.l., as the Borrower (outstanding balance of \$549,128.86 as of December 31, 2015).
  - 5) Intercompany Note, dated as of August 4, 2015, in an initial principal amount of \$4,870,000.00, between Global Eagle Entertainment, Inc., as the Lender, and Global Eagle Entertainment Luxembourg II S.à.r.l., as the Borrower (outstanding balance of \$4,889,880.27 as of December 31, 2015).
  - 6) Intercompany Note, dated as of December 15, 2015, in an initial principal amount of \$631,055.00, between Global Eagle Entertainment, Inc., as the Lender, and DTI Software Incorporation, as the Borrower (outstanding balance of \$631,331.63 as of December 31, 2015).
  - 7) Intercompany Note, dated as of December 15, 2015, in an initial principal amount of \$423,324.00, between Global Eagle Entertainment, Inc., as the Lender, and Global Entertainment GmbH, as the Borrower (outstanding balance of \$423,509.57 as of December 31, 2015).
  - 8) Intercompany Note, dated as of December 15, 2015, in an initial principal amount of \$218,067.00, between Global Eagle Entertainment, Inc., as the Lender, and PMG California, Inc., as the Borrower (outstanding balance of \$218,162.59 as of December 31, 2015).
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- 9) Intercompany Note, dated as of December 15, 2015, in an initial principal amount of \$41,425.00, between Global Eagle Entertainment, Inc., as the Lender, and Inflight Productions Pte Ltd., as the Borrower (outstanding balance of \$41,443.16 as of December 31, 2015).
  - 10) Intercompany Note, dated as of December 15, 2015, in an initial principal amount of \$132,509.00, between Global Eagle Entertainment, Inc., as the Lender, and DTI Software FZ-LLC, as the Borrower (outstanding balance of \$132,567.09 as of December 31, 2015).
  - 11) Intercompany Note, dated as of December 15, 2015, in an initial principal amount of \$126,983.00, between Global Eagle Entertainment, Inc., as the Lender, and Inflight Productions FZ-LLC, as the Borrower (outstanding balance of \$127,038.66 as of December 31, 2015).
  - 12) Intercompany Note, dated as of May 1, 2013, in an initial principal amount of \$2,892,480, between Global Eagle Entertainment, Inc., as the Lender, and Global Eagle Entertainment Luxembourg II S.à.r.l., as the Borrower.
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**Schedule III**

**Commercial Tort Claims**

None.



4553 GLENCOE AVENUE, SUITE 300  
MARINA DEL REY, CA 90292

August 9, 2016

Zant Chapelo  
c/o Global Eagle Entertainment Inc.  
4553 Glencoe Ave., Suite 300  
Marina Del Rey, CA 90292

***Re: Amended and Restated Offer of Employment***

Dear Zant:

Global Eagle Entertainment Inc. (the “Company”) is providing you this letter agreement (this Agreement”), which amends and restates your prior Offer of Employment dated September 9, 2013 (the “Original Offer”), on the following terms:

1. **Position.** Your current title is SVP–People & Organization Development and you currently report to the Chief Executive Officer of the Company. This is a full-time position in the Company’s office in the Los Angeles, CA area. By signing this Agreement, you confirm to the Company that since the commencement of your employment you have had no contractual commitments or other legal obligations that would prohibit you from performing your duties for the Company.

2. **Period of Employment.** Subject to Section 10 below, your employment with the Company commenced on September 9, 2013 and will continue until you resign from the Company or your employment with the Company is terminated (the “Employment Period”).

3. **Cash Compensation.** The Company pays you a “base” salary at the rate of \$276,654 per year (as may be reviewed and adjusted from time to time in the discretion of the Company), less applicable withholdings and payroll taxes, payable in accordance with the Company’s standard payroll schedule. In addition to the foregoing base salary, subject to achieving certain performance milestones to be agreed upon in writing between you and your supervisor, you will be eligible for an annual performance bonus based on the GEE Annual Incentive Plan as in effect from time to time with a current target of 50% of your annual base salary and not exceeding

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70% of your annual base salary; provided, that, final determination of eligibility and payment of all performance bonuses shall be subject to the complete discretion of the Compensation Committee of the Board of Directors of the Company.

4. **Equity Incentive.** In connection with the Original Offer, you were granted an option to purchase 150,000 shares of the Company's Common Stock. The option is subject to the terms and conditions applicable to options granted under the Global Eagle Entertainment Inc. Amended and Restated 2013 Equity Incentive Plan (the "Plan"). 25% of your option shares vested after twelve (12) months of continuous service, and the balance will vest in equal monthly installments over the following 36 months of continuous service, as described in the Plan; provided, that, in the event of a Change of Control (as defined below) and the termination of your employment without Cause (as defined below) within the twelve (12) month period following the Change of Control, all of your unvested shares pursuant to the foregoing grant will immediately vest. Any shares of Common Stock that you acquire through the exercise of any vested options may be subject to certain repurchase rights of the Company, as further set forth in the Plan.

5. **Severance Pay.** If, during the Employment Period, your employment with the Company is terminated by the Company with Cause, or if you resign for any reason, then you will only be entitled to receive your base salary through the date of termination and will not be entitled to any other salary, bonus, severance, compensation or benefits from the Company or affiliates thereafter, other than those expressly required under applicable law (such as the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended). If your employment with the Company is terminated by the Company without Cause during the Employment Period, and, within twenty-one (21) days of your termination you execute a general release in favor of the Company, its subsidiaries and their affiliates in the form provided by the Company and such release becomes effective and is not revoked, and you comply with the terms of this Agreement, you will be entitled to receive your base salary and medical benefits for a period equal to six (6) months after the date of termination. The severance payments payable to you pursuant to this offer letter will be paid over the six (6) months after the date of termination in accordance with the Company's normal payroll practices. Notwithstanding the foregoing, for so long as the Company is a "public company" within the meaning of Internal Revenue Code Section 409A, any amounts payable to you during the first six (6) months and one (1) day following the date of termination pursuant to this section will be deferred until the date which is six (6) months and one (1) day following such termination, and if such payments are required to be so deferred the first payment will be in an amount equal to the total amount to which you would otherwise have been entitled during the period following the date of termination of employment if deferral had not been required. For purposes of this offer letter, "Cause" will mean (i) the commission of a felony or other crime involving moral turpitude or the commission of any other act or omission involving misappropriation, dishonesty, unethical business conduct, disloyalty, fraud or breach of fiduciary duty, (ii) reporting to work under the influence of alcohol, (iii) the use of illegal drugs (whether or not at the workplace) or other

conduct, even if not in conjunction with his duties hereunder, which could reasonably be expected to, or which does, cause the Company or any of its Subsidiaries material public disgrace, disrepute or economic harm, (iv) repeated failure to perform duties as reasonably directed by the Board and/or the Company's principal executive officer, (v) gross negligence or willful misconduct with respect to the Company or affiliates or in the performance of your duties hereunder, (vi) obtaining any personal profit not thoroughly disclosed to and approved by the Board in connection with any transaction entered into by, or on behalf of, the Company, its subsidiaries or any of their affiliates, or (vii) materially violating any of the terms of the Company's, its subsidiaries' or any of their affiliates' rules or policies which, if curable, is not cured to the Board's satisfaction within fifteen (15) days after written notice thereof to you, or any other breach of this offer letter or any other agreement between you and the Company or any of its Subsidiaries which, if curable, is not cured to the Board's satisfaction within fifteen (15) days after written notice thereof to you.

6. **Change in Control.** For purposes of this Agreement, "Change in Control" shall mean (i) the consummation of a merger or consolidation of the Company with or into another entity or any other corporate reorganization, if persons who were not the ultimate equity owners of the Company immediately prior to such merger, consolidation or other reorganization own immediately after such merger, consolidation or other reorganization 50% or more of the voting power of the outstanding securities of each of (A) the continuing or surviving entity and (B) any direct or indirect parent corporations of such continuing or surviving entity; or (ii) the sale, transfer or other disposition of all or substantially all of the Company's assets. A transaction shall not constitute a Change in Control if its principal purpose is to combine the entities comprising the Company, change the state of the Company's incorporation or to create a holding company that will be owned in substantially the same proportions by the ultimate equity owners of the Company's securities immediately before such transaction.

7. **Employee Benefits.** You will be entitled to receive standard employee benefits made available by the Company from time to time to its employees to the full extent of your eligibility. Details of these benefits will be provided to you under separate cover. At present, the Company offers medical, dental, vision, and 401K plans. You will be entitled to fifteen (15) days of personal time off per year and the other holidays normally observed by the Company during the year.

8. **Expense Reimbursement.** The Company will reimburse out-of-pocket expenses reasonably incurred by you in the performance of the services hereunder during the Employment Period. All reimbursable expenses shall be appropriately documented in reasonable detail by you upon submission of any request for reimbursement, and in a format and manner consistent with the Company's expense reporting policies and procedures, as well as applicable federal and state tax record-keeping requirements.

9. **Proprietary Information and Inventions Agreement** . As a condition of your employment with the Company, you previously signed the Company's Proprietary Information and Inventions Agreement, and such signed copy is attached hereto as Attachment A.

10. **Employment Relationship**. Your employment with the Company will be "at will," meaning that either you or the Company may terminate your employment at any time and for any reason, with or without cause. Any contrary representations that may have been made to you are superseded by this letter agreement. This is the full and complete agreement between you and the Company on this term. Although your job duties, title, compensation and benefits, as well as the Company's personnel policies and procedures, may change from time to time, the "at will" nature of your employment may only be changed in an express written agreement signed by you and a duly authorized officer of the Company (other than you).

11. **Outside Activities**. While you render services to the Company, you agree that you will not engage in any other employment, consulting or other business activity without the prior written consent of the Chief Executive Officer. While you render services to the Company, you also will not assist any person or entity in competing with the Company, in preparing to compete with the Company or in hiring any employees or consultants of the Company.

12. **Withholding Taxes**. All forms of compensation referred to in this letter agreement are subject to reduction to reflect applicable withholding and payroll taxes and other deductions required by law.

13. **Drug Testing and Background Check** . As a condition of employment by the Company, you previously authorized the Company to conduct a background check prior to your commencing work at the Company, which included a criminal investigation and verification of citizenship/immigration status, employment history, and education. In consideration for the offer of employment set forth herein, you hereby waive any and all claims that you may have against the Company for invasion of your privacy in respect of the drug testing and background checks referenced above.

14. **Entire Agreement**. This letter agreement supersedes and replaces any prior agreements, representations or understandings, whether written, oral or implied, between you and the Company, including the Original Offer.

\*\*\*\*\*

You may indicate your agreement with these terms and accept these terms by signing and dating the enclosed duplicate original of this letter agreement and returning it to the undersigned.

Very truly yours,

GLOBAL EAGLE ENTERTAINMENT INC.

By: /s/ Stephen Ballas

Printed Name: Stephen Ballas

Title: Senior Vice President, General Counsel and Secretary

I have read and accept the terms in this letter agreement:

/s/ Zant L. Chapelo

Signature of Zant L. Chapelo

Dated: August 9, 2016

**Attachment**

Attachment A: Confidentiality, Proprietary Information and Invention Assignment

**Attachment A**

**GLOBAL EAGLE ENTERTAINMENT INC.  
EMPLOYEE STATEMENT & AGREEMENTS REGARDING  
CONFIDENTIALITY, PROPRIETARY INFORMATION  
AND INVENTION ASSIGNMENT**

In consideration of and as a condition of my employment and continued employment with Global Eagle Entertainment Inc., its subsidiaries, affiliates, successors or assigns (together "Global Eagle"), and my receipt of the salary and other compensation to be paid to me by Global Eagle, I, the undersigned employee, do hereby agree to the following (this "Agreement"):

**1. PROPRIETARY INFORMATION, COPYRIGHTS, MASK WORKS & INVENTIONS**

Global Eagle is an electronics, entertainment and services firm engaged in the research, development, manufacturing, sale, support and provision of electronic and communication systems, entertainment content, content logistics and processing, and components and materials for providing broadband internet, video and voice services on aircraft (the "Business of Global Eagle").

The success of Global Eagle depends, among other things, upon strictly maintaining confidential and secret information relating to its trade secrets, technology, accounting, costs, research, development, sales, manufacturing, methods, production, testing, implementation, marketing, financial information, financial results, products, customers, suppliers, staffing levels, employees, shareholders, officers and other information peculiarly within the knowledge of and relating to the Business of Global Eagle, and to which employees may acquire knowledge or have access to during the course of their employment by Global Eagle. All such information is hereinafter collectively referred to as "Proprietary Information." Proprietary Information shall be broadly defined. It includes all information, data, trade secrets or know-how that has or could have commercial value or other utility in the Business of Global Eagle or in which it contemplates engaging. Proprietary Information also includes all information the unauthorized disclosure of which is or could be detrimental to the interests of Global Eagle, whether or not such information is identified as confidential or proprietary information by Global Eagle.

Notwithstanding the above, Proprietary Information shall not include any information, data, trade secrets or know-how that (i) I can prove was known by me prior to the commencement of my employment with Global Eagle or (ii) is or becomes publicly known from another source that is under no obligation of confidentiality to Global Eagle without fault on my part. I do not know any information, data, trade secrets or know-how that would be Proprietary Information but for this provision.

The success of Global Eagle also depends upon the timely disclosure of inventions made by Global Eagle employees in the course of their employment and, in appropriate circumstances, the full cooperation of employee inventors in filing, maintaining and enforcing United States and foreign country patent applications and patents covering such inventions.

In view of the foregoing and in consideration of my employment by Global Eagle and as a further condition thereof, I agree as follows:

**A. PREVIOUS  
EMPLOYMENT**

I acknowledge that it is the policy of Global Eagle to require that its employees strictly honor all obligations regarding proprietary information of former employers. I acknowledge and agree that I have a continuing obligation to protect and safeguard the proprietary information of my former employer(s), if any. I agree to read my agreement(s), if any, with my former employers(s) with respect to proprietary information and to abide by all the terms and conditions set forth therein.

**B. PROPRIETARY  
INFORMATION**

I shall use my best efforts to exercise utmost diligence to protect and guard the Proprietary Information of Global Eagle. Neither during my employment by Global Eagle nor thereafter shall I, directly or indirectly, use for myself or another, or disclose to another, any Proprietary Information (whether acquired, learned, obtained or developed by me alone or in conjunction with others) of Global Eagle, except as such disclosure or use is (i) required in connection with my employment with Global Eagle, (ii) consented to in writing by Global Eagle or (iii) legally required to be disclosed pursuant to a subpoena or court order, and in the case of (iii), disclosure may only be made after I have informed Global Eagle of such requirement and assisted Global Eagle in taking reasonable steps to seek a protective order or other appropriate action. I agree not to remove any materials relating to the work performed at Global Eagle without the prior written permission of the Board of Directors of Global Eagle. Upon request by Global Eagle at any time, including the event of my termination of employment with Global Eagle, I shall promptly deliver to Global Eagle, without retaining any copies, notes or excerpts thereof, all memoranda, journals, notebooks, diaries, notes, records, plats, sketches, plans, specifications, or other documents (including documents on electronic media) relating directly or indirectly to any Proprietary Information made or compiled by or delivered or made available to or otherwise obtained by me. Each of the foregoing obligations shall apply with respect to Proprietary Information of customers, contractors and others with whom Global Eagle has a business relationship, learned

or acquired by me during the course of my employment by Global Eagle. The provisions of this section shall continue in full force and effect after my termination of employment for whatever reason.

**C. COPYRIGHT & MASK WORKS**

All rights in and to any copyrightable material (including, but not limited to, computer programs) or material protectable as a mask work under the Semiconductor Chip Protection Act of 1984 which I may originate pursuant to or in connection with the Business of Global Eagle, and which are not expressly released by Global Eagle in writing, shall be deemed as a work for hire and shall be the sole and exclusive property of Global Eagle, its successors, assigns or other legal representatives.

**D. INVENTIONS**

With the exception of "EXEMPT" inventions, as defined herein, any and all inventions, including original works of authorship, concepts, trade secrets, improvements, developments and discoveries, whether or not patentable or registrable under copyright or similar laws, which I may conceive or first reduce to practice (or cause to be conceived or first reduced to practice), either alone or with others during the period of my employment by Global Eagle (hereinafter referred to as "Global Eagle Inventions") shall be the sole and exclusive property of Global Eagle, its successors, assigns, designees, or other legal representatives ("Global Eagle Representatives") and shall be promptly disclosed to Global Eagle in writing, and I hereby assign to Global Eagle all of my right, title and interest in such Global Eagle Inventions.

I agree to keep and maintain adequate and current written records of all Global Eagle Inventions and their development that I make (solely or jointly with others) during the period of employment. These records will be in the form of notes, sketches, drawings, and any other format that may be specified by Global Eagle. The records will be available to and remain the sole property of Global Eagle at all times.

I shall, without further compensation or consideration, but at no expense to me:

- (a) Communicate to Global Eagle any facts known by me respecting said Global Eagle Inventions;
- (b) do all lawful acts, including the execution and delivery of all papers and proper oaths and the giving of testimony deemed necessary or desirable by Global Eagle or Global Eagle Representatives, with regard to said Global

Eagle Inventions, for protecting, obtaining, securing rights in, maintaining and enforcing any and all copyrights, patents, mask work rights or other intellectual property rights in the United States and throughout the world for said Global Eagle Inventions, and for perfecting, affirming, recording and maintaining in Global Eagle and Global Eagle Representatives sole and exclusive right, title and interest in and to the Global Eagle Inventions, and any copyrights, Patents, mask work rights or other intellectual property rights relating thereto; and

- (c) generally cooperate to the fullest extent in all matters pertaining to said Global Eagle Inventions, original works of authorship, concepts, trade secrets, improvements, developments and discoveries, any and all applications, specifications, oaths, assignments and all other instruments which Global Eagle shall deem necessary in order to apply for and obtain such rights and in order to assign and convey to Global Eagle, its successors, assigns and nominees the sole and exclusive rights, title and interest in and to such Global Eagle Inventions, and any copyrights, patents, mask work rights or other intellectual property rights relating thereto.

An "EXEMPT" invention is one which:

- (a) was developed entirely on my own time without using Global Eagle equipment, supplies, facilities, or trade secret information;
- (b) does not relate at the time of conception or reduction to practice of the invention to Global Eagle business, or to its actual or demonstrably anticipated research or development; and
- (c) does not result from any work performed by me for Global Eagle.

Inventions which I consider to be "EXEMPT" but made solely or jointly with others during the term of my employment, shall be disclosed in confidence to Global Eagle for the purpose of determining such issues as may arise.

I acknowledge and agree that my obligations with respect to the foregoing shall continue after the termination of my employment with Global Eagle. If Global Eagle is unable because of my mental or physical incapacity or for any other reason to secure my signature to apply for or to pursue any application for any United States or foreign patents or copyright registrations covering Global Eagle Inventions or original works of authorship assigned to Global Eagle as above, then I hereby irrevocably designate and appoint Global Eagle and its duly authorized officers and

agents as my agent and attorney in fact, to act for and in my behalf and stead to execute and file any such applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters, patents or copyright registrations thereon with the same legal force and effect as if executed by me.

Listed on the attached sheet by descriptive title for purposes of identification only are all of the inventions made by me (conceived and reduced to practice) prior to my employment by Global Eagle that I consider to be my property and excluded from this Agreement.

#### **NOTICE UNDER SECTION 2872**

This Agreement has been drafted to be in conformance with Section 2870 of Article 3.5 (INVENTIONS MADE BY EMPLOYEE) of the Labor Code of the State of California as amended 1991 and, as required by Section 2872, notification is hereby given that this Employment Agreement does not apply to an invention which qualifies as an "EXEMPT" invention under the provisions of Section 2870. Global Eagle reserves the right to modify Provision D to conform to applicable state or federal law. Please note that your obligations under this Agreement may change pursuant to changes in the law of the State of California. California Labor Code Section 2870 reads as follows:

(a) Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either: (1) Relate at the time of conception or reduction to practice of the invention to the employer's business, or actual or demonstrably anticipated research or development of the employer; or (2) Result from any work performed by the employee for the employer. (b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable.

## **2. NON-COMPETITION AND NON-SOLICITATION**

I acknowledge and agree that Global Eagle is entitled to protect its legitimate business interests and investments and prevent me from using my knowledge of its trade secrets and Proprietary Information to the detriment of Global Eagle. I also acknowledge that the nature of the business of Global Eagle is such that the on-going relationship among Global Eagle and its employees, clients and customers is material and has a significant effect on the ability of Global Eagle to obtain business.

In view of the foregoing and in consideration of my employment by Global Eagle and as further condition thereof, I agree as follows:

**A. NON-COMPETITION**

During the period of my employment, I will use my best efforts, skill and judgment to promote and advance Global Eagle's business interests and refrain from competing, directly or indirectly, with Global Eagle.

**B. NON-SOLICITATION**

During the period of my employment and for one (1) year thereafter (the "Restricted Period"), I will not, without Global Eagle's prior written consent, directly or indirectly, induce, knowingly solicit or encourage to leave the employment of Global Eagle, any employee of Global Eagle.

I acknowledge that the limits set forth herein are reasonable and properly required to adequately protect Global Eagle's legitimate business interests and to prevent unfair competition. However, if in any proceeding, a court or arbitrator shall refuse to enforce this Agreement, whether because the time limit is too long or because the restrictions contained herein are more extensive (whether as to geographic area, scope of business or otherwise) than is necessary to protect the business of Global Eagle, it is expressly understood and agreed between the parties hereto that this Agreement is deemed modified to the extent necessary to permit this Agreement to be enforced in any such proceedings.

**3. ARBITRATION**

Any and all claims or controversies arising out of or relating to my employment, the termination thereof, or otherwise arising between the parties hereto shall, in lieu of a jury or other civil trial, be settled by final and binding arbitration before a single arbitrator in Los Angeles, California, in accordance with then-current rules of the American Arbitration Association applicable to employment disputes. This agreement to arbitrate includes all claims whether arising in tort or contract and whether arising under statute or common law including, but not limited to, any claim of breach of contract, discrimination or harassment of any kind. The obligation to arbitrate such claims shall continue forever, and the arbitrator shall have jurisdiction to determine the arbitrability of any claim. The arbitrator shall have the authority to award any and all damages otherwise recoverable in a court of law. The arbitrator shall not have the authority to add to, subtract from or modify any of the terms of this Agreement. Judgment on any award rendered by the arbitrator may be entered and enforced by any court having jurisdiction thereof. I agree to pay the then-current Superior Court of California filing fee towards the costs of the arbitration (i.e., filing fees, administration fees, and arbitrator fees), and each party shall be responsible for paying its own other

costs for the arbitration, including, but not limited to, attorneys' fees, witness fees, transcript fees, or other litigation expenses. I shall not be required to pay any type or amount of expense if such requirement would invalidate this agreement or would otherwise be contrary to the law as it exists at the time of the arbitration. The prevailing party in any arbitration shall be entitled to recover its reasonable attorney's fees and costs, where authorized by contract or statute.

This section does not apply or restrict either party hereto from seeking equitable relief, including injunctive relief, from any court having competent jurisdiction for violating this Agreement or any applicable law.

#### **4. EQUITABLE RELIEF**

I expressly agree and understand that in the event that I breach this Agreement it will result in irreparable harm to Global Eagle, and that the damages flowing from such breach cannot be adequately measured in monetary terms. I further expressly acknowledge that the remedy at law for any such breach of this Agreement will be inadequate. Accordingly, it is agreed that Global Eagle shall be entitled, among other remedies, to immediate equitable relief, from a court having jurisdiction over the matter including a temporary restraining order, preliminary injunction and permanent injunction for any such breach or threatened breach. The party prevailing in any such action or proceeding shall be paid all reasonable attorneys' fees by the other party as well as costs.

#### **5. GENERAL PROVISIONS**

- A.** This Agreement will be governed by the laws of the State of California.
- B.** This Agreement sets forth the entire agreement and understanding between Global Eagle and me relating to the subject matter herein and merges all prior discussions between us. No modification of or amendment to this Agreement, nor any waiver or any rights under this Agreement, will be effective unless in writing signed by the party to be charged. Any subsequent change or changes in my duties, salary or compensation will not affect the validity or scope of this Agreement.
- C.** Nothing contained herein shall be construed to require the commission of any act contrary to law. Should there be any conflict between any provisions hereof and any present or future statute, law, ordinance, regulation, or other pronouncement having the force of law, the latter shall prevail, but the provision of this Agreement affected thereby shall be curtailed and limited only to the extent necessary to bring it within the requirement of the law, and the remaining provisions of this Agreement shall remain in full force and effect.

- D.** This Agreement may not be assigned by me without the prior written consent of Global Eagle. Subject to the foregoing sentence, this Agreement will be binding upon my heirs, executors, administrators and other legal representatives and will be for the benefit of Global Eagle, its successors, and its assigns.
  
- E.** The provisions of this Agreement are severable, and if any one or more provisions may be determined to be illegal or otherwise unenforceable, in whole or in part, the remaining provisions or parts thereof shall nevertheless be binding and enforceable. In the event that any provision of this Agreement is deemed unenforceable, Global Eagle and I agree that a court or an arbitrator chosen pursuant to the terms hereof shall reform such provision to the extent necessary to cause it to be enforceable to the maximum extent permitted by law. Global Eagle and I agree that each desires the court or arbitrator to reform such provision, and therefore agree that the court or arbitrator will have jurisdiction to do so and that each will abide by the determination of the court or arbitrator.

I have had the opportunity to review this Agreement at my leisure and have had the opportunity to ask questions regarding the nature of my employment with Global Eagle I have also been advised that I would be given the opportunity to allow my legal counsel to assist me in the review of this Agreement prior to my execution of this Agreement. I agree to execute any proper oath or verify any proper document required to carry out the terms of this Agreement. I represent that my performance of all the terms of this Agreement will not breach any agreement to keep in confidence proprietary information acquired by me in confidence or in trust prior to my employment by Global Eagle. I have not entered into, and I agree I will not enter into any oral or written agreements in conflict herewith.

[signature page follows]

I have read, and I understand and agree to comply with all conditions above without any reservation whatsoever.

Signature: /s/ Zant Chapelo

Date: September 9, 2013

Print Employee Name: Zant Chapelo

Global Eagle Entertainment Inc.

By: /s/ David M. Davis

Name: David M. Davis

Title: Chief Financial Officer

NY:1821744.5



4553 GLENCOE AVENUE, SUITE 300  
MARINA DEL REY, CA 90292

August 9, 2016

Josh Marks  
c/o Global Eagle Entertainment Inc.  
4553 Glencoe Ave., Suite 300  
Marina del Rey, CA 90292

***Re: Amended and Restated Employment Letter***

Dear Josh:

Global Eagle Entertainment Inc. (the “Company”) is providing you this letter agreement (this “Agreement”), which amends and restates your prior Offer of Employment, dated August 4, 2015 (the “Original Offer”), on the following terms:

1. **Position.** Your initial title is Executive Vice President—Aviation Connectivity, and you report to the Chief Executive Officer of the Company. This position is located in the Washington D.C. area and within a reasonable commuting distance of Reston, VA. By signing this Agreement, you confirm to the Company that since the commencement of your employment you have had no contractual commitments or other legal obligations that would prohibit you from performing your duties for the Company.

2. **Period of Employment.** Subject to Section 9 below, your employment with the Company commenced on August 4, 2015 and will continue for a period of 2 years thereafter (the “Employment Period”).

3. **Cash Compensation.** The Company pays you a “base” salary at the rate of \$335,000 per year (as may be reviewed and adjusted from time to time in the discretion of the Company), less applicable withholdings and payroll taxes, payable in accordance with the Company’s standard payroll schedule. In addition to the foregoing base salary, subject to achieving certain performance milestones to be agreed upon in writing between you and your supervisor, you will be eligible for an annual performance bonus based on the GEE Annual Incentive Plan as in effect from time to time with a current target bonus at 75% of your annual base salary provided,

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that, final determination of eligibility and payment of all performance bonuses shall be subject to the complete discretion of the Compensation Committee of the Board of Directors of the Company.

4. **Equity Incentive.** In connection with the Original Offer, you were granted (i) an option to purchase 185,000 shares of the Company's Common Stock (the "Option Award") and (ii) an award of 65,000 restricted stock units (the "Stock Award"). Both the Option Award and the Stock Award are subject to the terms and conditions applicable to such awards granted under the Global Eagle Entertainment Inc. Amended and Restated 2013 Equity Incentive Plan as in effect from time to time (the "Plan"). With respect to your Option Award, 25% of your option shares will vest after 12 months of continuous service, and the balance will vest in equal monthly installments over the following 36 months of continuous service, as described in the Plan. Subject to your continued service with the Company and the additional terms and conditions of the Plan, your Stock Award will vest in equal yearly installments with the first increment of 25% of the Stock Award vesting on the first anniversary of your start date, a second increment of 25% of the Stock Award vesting on the second anniversary of your start date, a third increment of 25% of the Stock Award vesting on the third anniversary of your start date, and the final increment of 25% of the Stock Award vesting on the fourth anniversary of your start date. Any shares of Common Stock that you acquire through the exercise of any Option Award or Stock Award may be subject to certain repurchase rights of the Company, as further set forth in the Plan. In addition, in the event of a Change of Control (as defined in the Plan) and the termination of your employment with the Company without Cause (as defined below) within twelve months of such Change of Control, all of the outstanding unvested options subject to your Option Award and all outstanding unvested restricted stock units subject to your Stock Award, shall automatically vest. Additionally, if, during the Employment Period, your employment with the Company is terminated by the Company for Cause, or if you resign for other than Good Reason, then you will forfeit all your Stock Award to the extent not previously vested and your Option Award to the extent not vested or exercised.

5. **Severance Pay.** If, during the Employment Period, your employment with the Company is terminated by the Company for Cause, or if you resign for other than Good Reason, then you will only be entitled to receive your base salary through the date of termination and will not be entitled to any other salary, bonus, severance, compensation or benefits from the Company or affiliates thereafter, other than those expressly required under applicable law (such as the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended). If your employment with the Company is terminated by the Company without Cause during the Employment Period or you terminate your employment with Good Reason, and, within twenty- one (21) days of your termination you execute a general release in favor of the Company, its subsidiaries and their affiliates in the form provided by the Company and such release becomes effective and is not revoked, and you comply with the terms of this Agreement, you will be entitled to receive your base salary and medical benefits for a period equal to twelve (12) months after the date of termination. Subject to applicable law, the severance payments payable to you pursuant to this Agreement will be paid over

the twelve (12) months after the date of termination in accordance with the Company's normal payroll practices. For purposes of this Agreement, "Cause" will mean (i) the commission of a felony or other crime involving moral turpitude or the commission of any other act or omission involving misappropriation, dishonesty, unethical business conduct, disloyalty, fraud or breach of fiduciary duty, (ii) repeated failure to perform duties as reasonably directed by the Board and/or the Company's principal executive officer, (iii) willful misconduct with respect to the Company or affiliates or in the performance of your duties hereunder, (iv) obtaining any personal profit not thoroughly disclosed to and approved by the Board in connection with any transaction entered into by, or on behalf of, the Company, its subsidiaries or any of their affiliates, or (v) materially violating any of the terms of the Company's, its subsidiaries' or any of their affiliates' rules or policies which, if curable, is not cured to the Board's satisfaction within thirty (30) days after written notice thereof to you, or any other breach of this offer letter or any other agreement between you and the Company or any of its Subsidiaries which, if curable, is not cured to the Board's satisfaction within thirty (30) days after written notice thereof to you. For purposes of this Agreement, "Good Reason" shall mean (i) you are assigned duties and responsibilities materially inconsistent with your position as set forth in this Agreement, provided that any such assignment of duties (x) shall only constitute "Good Reason" during the ninety (90) day period following the date of such assignment (after which it shall be deemed waived by you if prior thereto you have not exercised your right to resign for "Good Reason"), (y) shall not constitute "Good Reason" when it is an isolated action not taken in bad faith and that is remedied promptly after written notice thereof by you to the Company, and (z) shall not constitute "Good Reason" if you have consented to the performance thereof, (ii) any breach of a material term of this Agreement by the Company, which breach is not cured within thirty (30) days following written notice to the Company of such breach, (iii) the Company requires you to relocate to a location that is more than twenty-five (25) miles from the place of business contemplated by Section 1, unless you consent to such relocation, (iv) the event of your death or Disability, (v) the Company files for bankruptcy or becomes insolvent, (vi) the Company reduces your compensation provided in Section 3 of this Agreement, or (vii) the Company makes a material change in your reporting relationship provided in the first sentence of Section 1 of this Agreement. "Disability" shall mean shall mean a long-term disability that renders or will render you unable to perform your essential job functions for a period longer than three (3) consecutive months or one hundred twenty (120) days in any one (1)-year period (or such longer period required by applicable law). The determination of your Disability shall be made by your attending physician unless the Company reasonably disagrees with such determination, in which case it shall be determined by a majority of three independent physicians qualified to practice medicine in the Commonwealth of Virginia, one to be selected by each of you (or your authorized representative) and the Company and the third to be selected by such two designated physicians.

6. **Employee Benefits.** You will be entitled to receive standard employee benefits made available by the company to its employees to the full extent of your eligibility. Details

of these benefits will be provided to you under separate cover. At present, the Company offers medical, dental, vision, and 401(k) plans. The Company shall reimburse you for all reasonable business expenses actually incurred or paid by you in the performance of your services on behalf of the Company in accordance with the Company's expense reimbursement policy. You will also be entitled to participate in the Company's paid time off policy.

7. **Expense Reimbursement.** In accordance with the Company's travel and expense reimbursement policies, the Company shall reimburse you for all business travel. The Company will also reimburse other out-of-pocket expenses reasonably incurred by you in the performance of your services hereunder during the term of your employment. All reimbursable expenses shall be appropriately documented in reasonable detail by you upon submission of any request for reimbursement, and in a format and manner consistent with the Company's expense reporting policies and procedures, as well as applicable federal and state tax record-keeping requirements.

8. **Proprietary Information and Inventions Agreement .** As a condition of your employment with the Company, you previously signed the Company's Proprietary Information and Inventions Agreement, and such signed copy is attached hereto as Attachment A.

9. **Employment Relationship.** After the expiration of the Employment Period, your employment with the Company will be "at will," meaning that either you or the Company may terminate your employment at any time and for any reason, with or without cause. Any contrary representations that may have been made to you are superseded by this Agreement. This is the full and complete agreement between you and the Company on this term. Although your job duties, title, compensation and benefits, as well as the Company's personnel policies and procedures, may change from time to time, the "at will" nature of your employment may only be changed in an express written agreement signed by you and a duly authorized officer of the Company (other than you). For purposes of clarity, your employment will be "at will" after the expiration of the Employment Period.

10. **Outside Activities.** While you render services to the Company, you agree that you will not engage in any other employment, consulting or other business activity without the prior written consent of the Chief Executive Officer. While you render services to the Company, you also will not assist any person or entity in competing with the Company, in preparing to compete with the Company or in hiring any employees or consultants of the Company.

11. **280G.** In the event that a Change in Control of the Company occurs and any payment to you as a result of such Change in Control would constitute a parachute payment as defined within the meaning of Section 280G of the Internal Revenue Code (the "Code"), the Company will either (a) reduce the amount of such payment so that such payment would not be

subject to the excise tax imposed pursuant to Section 4999 of the Code, or alternatively (b) pay the full amount of such payment to you (with you being personally responsible for payment of any associated excise taxes), whichever produces the better after-tax result for you.

12. **Withholding Taxes.** All forms of compensation referred to in this Agreement are subject to reduction to reflect applicable withholding and payroll taxes and other deductions required by law.

13. **Confidentiality.** You agree that you will keep the terms and existence of this Agreement completely confidential and that, except as required by law or authorized in writing by the Company, you will not disclose any information concerning this Agreement to anyone other than your immediate family and legal representatives and tax advisors, who will be informed by you of, and agree to be bound by, this confidentiality clause before he or she shares such information. Nothing in this provision shall prevent you from complying with any administrative agency, directive, court order, subpoena, or other valid legal process.

14. **Severability.** Any provision of this Agreement which is invalid or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement, and any such prohibition or unenforceability in any jurisdiction will not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, the parties waive any provision of law which renders any such provision prohibited or unenforceable in any respect.

15. **Applicable Law; Jurisdiction.** This Agreement will be governed by, and construed in accordance with, the laws of the Commonwealth of Virginia, regardless of the laws that might otherwise govern under applicable principles of conflicts of laws thereof. Subject to the requirements of Section 16, in any action between any of the parties arising out of or relating to this Agreement or any of the transactions contemplated by this Agreement: (a) each of the parties irrevocably and unconditionally consents and submits to the jurisdiction and venue of the state and federal courts located in the Commonwealth of Virginia; (b) if any such action is commenced in a state court, then, subject to applicable law, no party will object to the removal of such action to any federal court located in the Commonwealth of Virginia; (c) each of the parties irrevocably waives the right to trial by jury; and (d) each of the parties irrevocably consents to service of process by first class certified mail, return receipt requested, postage prepaid, to the address on file with the Company. Notwithstanding anything to the contrary herein, prior to any party commencing any Proceeding, the parties shall negotiate in good faith to resolve the dispute in question before commencing the dispute resolution procedures set forth in Section 16 or this Section 15.

16. **Arbitration.** Except for injunctive or other equitable relief or as otherwise provided in this Agreement, any dispute arising out of or relating to this Agreement or any of the transactions contemplated by this Agreement shall be determined by arbitration in the Commonwealth of Virginia, before a single arbitrator that is independent of the parties and selected in accordance with, and the arbitration shall be administered by JAMS pursuant to JAMS' Comprehensive Arbitration Rules and Procedures excluding its optional Arbitration Appeal procedures. The arbitration hearings shall be confidential. To the maximum extent permitted by legal requirements, the decision of the arbitrator shall be final and binding and not be subject to appeal (but will be subject to being vacated pursuant to 7511 of the New York Code). Each party will bear its own fees and expenses. If a party against whom the arbitrator renders an award fails to abide by such award, the other party may seek to enforce such award in a court of competent jurisdiction.

17. **No Waiver.** Except as otherwise provided herein, no action taken pursuant to this Agreement, including any investigation by or on behalf of any party, shall be deemed to constitute a waiver by the party taking such action of compliance with any representations, warranties, covenants or agreements contained in this Agreement. Any term, covenant, agreement, obligation, undertaking, condition, representation or warranty under this Agreement may be waived at any time by the party which is entitled to the benefit thereof, but only by a written notice signed by such party expressly waiving such term, covenant, agreement, obligation, undertaking, condition, representation or warranty. The failure of any party to insist, in any one or more instances, upon performance of the terms or conditions of this Agreement shall not be construed as a waiver or relinquishment of any right granted hereunder or of the future performance of any such term, covenant or condition. No waiver on the part of any party of any right, power or privilege, nor any single or partial exercise of any such right, power or privilege, shall preclude any further exercise thereof or the exercise of any other such right, power or privilege.

18. **Amendment.** This Agreement may be amended, superseded, canceled, renewed or extended, and the terms hereof may be waived, only by a written instrument signed by all of the parties hereto.

19. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, and it will not be necessary in making proof of this Agreement or the terms of this Agreement to produce or account for more than one of such counterparts. All counterparts shall constitute one and the same instrument. Each party may execute this Agreement via a facsimile (or transmission of a PDF file) of a counterpart of this Agreement. In addition, facsimile or PDF signatures of authorized signatories of any party shall be valid and binding and delivery of a facsimile or PDF signature by any party shall constitute due execution and delivery of this Agreement.

20. **Entire Agreement.** This Agreement supersedes and replaces any prior agreements, representations or understandings, whether written, oral or implied, between you and the Company, including the Original Offer; provided, however, that this Agreement shall not supersede either party's obligations as set forth in the Agreement and Plan of Merger, made and entered into as of August 4, 2015 (the "Merger Agreement"), which obligations shall continue in full force and effect, including with respect to any earn out amounts that may become payable to you pursuant to the Merger Agreement, as summarized on Attachment B to this Agreement. Subject to the proviso in the immediately preceding sentence, the parties have voluntarily agreed to define their rights, liabilities and obligations respecting the subject matter hereof exclusively in contract pursuant to the express terms and provisions of this Agreement; and the parties expressly disclaim that they are owed any duties or are entitled to any remedies not expressly set forth in this Agreement. Furthermore, the parties each hereby acknowledge that this Agreement embodies the justifiable expectations of sophisticated parties derived from arm's length negotiations.

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## **Attachment A**

### **GLOBAL EAGLE ENTERTAINMENT INC. EMPLOYEE STATEMENT & AGREEMENTS REGARDING CONFIDENTIALITY, PROPRIETARY INFORMATION AND INVENTION ASSIGNMENT**

In consideration of and as a condition of my employment and continued employment with Global Eagle Entertainment Inc., its subsidiaries, affiliates, successors or assigns (together “Global Eagle”), and my receipt of the salary and other compensation to be paid to me by Global Eagle, I, the undersigned employee, do hereby agree to the following (this “Agreement”):

#### **1. PROPRIETARY INFORMATION, COPYRIGHTS, MASK WORKS & INVENTIONS**

Global Eagle is an electronics, entertainment and services firm engaged in the research, development, manufacturing, sale, support and provision of electronic and communication systems, entertainment content, content logistics and processing, and components and materials for providing broadband internet, video and voice services on aircraft (the “Business of Global Eagle”).

The success of Global Eagle depends, among other things, upon strictly maintaining confidential and secret information relating to its trade secrets, technology, accounting, costs, research, development, sales, manufacturing, methods, production, testing, implementation, marketing, financial information, financial results, products, customers, suppliers, staffing levels, employees, shareholders, officers and other information peculiarly within the knowledge of and relating to the Business of Global Eagle, and to which employees may acquire knowledge or have access to during the course of their employment by Global Eagle. All such information is hereinafter collectively referred to as “Proprietary Information.” Proprietary Information shall be broadly defined. It includes all information, data, trade secrets or know-how that has or could have commercial value or other utility in the Business of Global Eagle or in which it contemplates engaging. Proprietary Information also includes all information the unauthorized disclosure of which is or could be detrimental to the interests of Global Eagle, whether or not such information is identified as confidential or proprietary information by Global Eagle.

Notwithstanding the above, Proprietary Information shall not include any information, data, trade secrets or know-how that (i) I can prove was known by me prior to the commencement of my employment with Global Eagle or (ii) is or becomes publicly known from another source that is under no obligation of confidentiality to Global Eagle without fault on my part. I do not know any

information, data, trade secrets or know-how that would be Proprietary Information but for this provision.

The success of Global Eagle also depends upon the timely disclosure of inventions made by Global Eagle employees in the course of their employment and, in appropriate circumstances, the full cooperation of employee inventors in filing, maintaining and enforcing United States and foreign country patent applications and patents covering such inventions.

In view of the foregoing and in consideration of my employment by Global Eagle and as a further condition thereof, I agree as follows:

**A. PREVIOUS  
EMPLOYMENT**

I acknowledge that it is the policy of Global Eagle to require that its employees strictly honor all obligations regarding proprietary information of former employers. I acknowledge and agree that I have a continuing obligation to protect and safeguard the proprietary information of my former employer(s), if any. I agree to read my agreement(s), if any, with my former employers(s) with respect to proprietary information and to abide by all the terms and conditions set forth therein.

**B. PROPRIETARY  
INFORMATION**

I shall use my best efforts to exercise utmost diligence to protect and guard the Proprietary Information of Global Eagle. Neither during my employment by Global Eagle nor thereafter shall I, directly or indirectly, use for myself or another, or disclose to another, any Proprietary Information (whether acquired, learned, obtained or developed by me alone or in conjunction with others) of Global Eagle, except as such disclosure or use is (i) required in connection with my employment with Global Eagle, (ii) consented to in writing by Global Eagle or (iii) legally required to be disclosed pursuant to a subpoena or court order, and in the case of (iii), disclosure may only be made after I have informed Global Eagle of such requirement and assisted Global Eagle in taking reasonable steps to seek a protective order or other appropriate action. I agree not to remove any materials relating to the work performed at Global Eagle without the prior written permission of the Board of Directors of Global Eagle. Upon request by Global Eagle at any time, including the event of my termination of employment with Global Eagle, I shall promptly deliver to Global Eagle, without retaining any copies, notes or excerpts thereof, all memoranda, journals, notebooks, diaries, notes, records, plats, sketches, plans, specifications, or other documents (including documents on electronic media) relating directly or indirectly to any Proprietary Information made or compiled by or delivered or made available to or otherwise obtained by me. Each of the foregoing

obligations shall apply with respect to Proprietary Information of customers, contractors and others with whom Global Eagle has a business relationship, learned or acquired by me during the course of my employment by Global Eagle. The provisions of this section shall continue in full force and effect after my termination of employment for whatever reason. Notwithstanding anything herein to the contrary, nothing in this Agreement shall (i) prohibit the employee from making reports of possible violations of federal law or regulation to any governmental agency or entity in accordance with the provisions of and rules promulgated under Section 21F of the Securities Exchange Act of 1934 or Section 806 of the Sarbanes-Oxley Act of 2002, or of any other whistleblower protection provisions of state or federal law or regulation, or (ii) require notification or prior approval by Global Eagle of any reporting described in clause (i).

**C. COPYRIGHT & MASK WORKS**

All rights in and to any copyrightable material (including, but not limited to, computer programs) or material protectable as a mask work under the Semiconductor Chip Protection Act of 1984 which I may originate pursuant to or in connection with the Business of Global Eagle, and which are not expressly released by Global Eagle in writing, shall be deemed as a work for hire and shall be the sole and exclusive property of Global Eagle, its successors, assigns or other legal representatives.

**D. INVENTIONS**

With the exception of "EXEMPT" inventions, as defined herein, any and all inventions, including original works of authorship, concepts, trade secrets, improvements, developments and discoveries, whether or not patentable or registrable under copyright or similar laws, which I may conceive or first reduce to practice (or cause to be conceived or first reduced to practice), either alone or with others during the period of my employment by Global Eagle (hereinafter referred to as "Global Eagle Inventions") shall be the sole and exclusive property of Global Eagle, its successors, assigns, designees, or other legal representatives ("Global Eagle Representatives") and shall be promptly disclosed to Global Eagle in writing, and I hereby assign to Global Eagle all of my right, title and interest in such Global Eagle Inventions.

I agree to keep and maintain adequate and current written records of all Global Eagle Inventions and their development that I make (solely or jointly with others) during the period of employment. These records will be in the form of notes, sketches,

drawings, and any other format that may be specified by Global Eagle. The records will be available to and remain the sole property of Global Eagle at all times.

I shall, without further compensation or consideration, but at no expense to me:

- (a) Communicate to Global Eagle any facts known by me respecting said Global Eagle Inventions;
- (b) do all lawful acts, including the execution and delivery of all papers and proper oaths and the giving of testimony deemed necessary or desirable by Global Eagle or Global Eagle Representatives, with regard to said Global Eagle Inventions, for protecting, obtaining, securing rights in, maintaining and enforcing any and all copyrights, patents, mask work rights or other intellectual property rights in the United States and throughout the world for said Global Eagle Inventions, and for perfecting, affirming, recording and maintaining in Global Eagle and Global Eagle Representatives sole and exclusive right, title and interest in and to the Global Eagle Inventions, and any copyrights, Patents, mask work rights or other intellectual property rights relating thereto; and
- (c) generally cooperate to the fullest extent in all matters pertaining to said Global Eagle Inventions, original works of authorship, concepts, trade secrets, improvements, developments and discoveries, any and all applications, specifications, oaths, assignments and all other instruments which Global Eagle shall deem necessary in order to apply for and obtain such rights and in order to assign and convey to Global Eagle, its successors, assigns and nominees the sole and exclusive rights, title and interest in and to such Global Eagle Inventions, and any copyrights, patents, mask work rights or other intellectual property rights relating thereto.

An "EXEMPT" invention is one which:

- (a) was developed entirely on my own time without using Global Eagle equipment, supplies, facilities, or trade secret information;
- (b) does not relate at the time of conception or reduction to practice of the invention to Global Eagle business, or to its actual or demonstrably anticipated research or development; and
- (c) does not result from any work performed by me for Global Eagle.

Inventions which I consider to be "EXEMPT" but made solely or jointly with others during the term of my employment, shall be disclosed in confidence to Global Eagle for the purpose of determining such issues as may arise.

I acknowledge and agree that my obligations with respect to the foregoing shall continue after the termination of my employment with Global Eagle. If Global Eagle is unable because of my mental or physical incapacity or for any other reason to secure my signature to apply for or to pursue any application for any United States or foreign patents or copyright registrations covering Global Eagle Inventions or original works of authorship assigned to Global Eagle as above, then I hereby irrevocably designate and appoint Global Eagle and its duly authorized officers and agents as my agent and attorney in fact, to act for and in my behalf and stead to execute and file any such applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters, patents or copyright registrations thereon with the same legal force and effect as if executed by me.

Listed on the attached sheet by descriptive title for purposes of identification only are all of the inventions made by me (conceived and reduced to practice) prior to my employment by Global Eagle that I consider to be my property and excluded from this Agreement.

#### **NOTICE UNDER SECTION 2872**

This Agreement has been drafted to be in conformance with Section 2870 of Article 3.5 (INVENTIONS MADE BY EMPLOYEE) of the Labor Code of the State of California as amended 1991 and, as required by Section 2872, notification is hereby given that this Employment Agreement does not apply to an invention which qualifies as an "EXEMPT" invention under the provisions of Section 2870. Global Eagle reserves the right to modify Provision D to conform to applicable state or federal law. Please note that your obligations under this Agreement may change pursuant to changes in the law of the State of California. California Labor Code Section 2870 reads as follows:

(a) Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either: (1) Relate at the time of conception or reduction to practice of the invention to the employer's business, or actual or demonstrably anticipated research or development of the employer; or (2) Result from any work performed by the employee for the employer, (b) To the extent a provision in an employment agreement purports to require

an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable.

## **2. NON COMPETITION AND NON-SOLICITATION**

I acknowledge and agree that Global Eagle is entitled to protect its legitimate business interests and investments and prevent me from using my knowledge of its trade secrets and Proprietary Information to the detriment of Global Eagle. I also acknowledge that the nature of the business of Global Eagle is such that the on-going relationship among Global Eagle and its employees, clients and customers is material and has a significant effect on the ability of Global Eagle to obtain business. In view of the foregoing and in consideration of my employment by Global Eagle and as further condition thereof, I agree as follows:

### **A. NONCOMPETITION**

During the period of my employment, I will use my best efforts, skill and judgment to promote and advance Global Eagle's business interests and refrain from competing, directly or indirectly, with Global Eagle.

### **B. NON-SOLICITATION**

During the period of my employment and for one (1) year thereafter (the "Restricted Period"), I will not, without Global Eagle's prior written consent, directly or indirectly, induce, knowingly solicit or encourage to leave the employment of Global Eagle, any employee of Global Eagle.

I acknowledge that the limits set forth herein are reasonable and properly required to adequately protect Global Eagle's legitimate business interests and to prevent unfair competition. However, if in any proceeding, a court or arbitrator shall refuse to enforce this Agreement, whether because the time limit is too long or because the restrictions contained herein are more extensive (whether as to geographic area, scope of business or otherwise) than is necessary to protect the business of Global Eagle, it is expressly understood and agreed between the parties hereto that this Agreement is deemed modified to the extent necessary to permit this Agreement to be enforced in any such proceedings.

## **3. ARBITRATION**

Except for injunctive or other equitable relief or as otherwise provided in this Agreement, any dispute arising out of or relating to this Agreement or any of the transactions contemplated by this Agreement shall be determined by arbitration in the Commonwealth of Virginia, before a single arbitrator that is independent of the parties and selected in accordance with, and the arbitration shall

be administered by JAMS pursuant to JAMS' Comprehensive Arbitration Rules and Procedures excluding its optional Arbitration Appeal procedures. The arbitration hearings shall be confidential. To the maximum extent permitted by legal requirements, the decision of the arbitrator shall be final and binding and not be subject to appeal (but will be subject to being vacated pursuant to 7511 of the New York Code). Each party will bear its own fees and expenses. If a party against whom the arbitrator renders an award fails to abide by such award, the other party may seek to enforce such award in a court of competent jurisdiction.

#### **4. GENERAL PROVISIONS**

- A.** This Agreement will be governed by the laws of the Commonwealth of Virginia.
- B.** This Agreement sets forth the entire agreement and understanding between Global Eagle and me relating to the subject matter herein and merges all prior discussions between us. No modification of or amendment to this Agreement, nor any waiver or any rights under this Agreement, will be effective unless in writing signed by the party to be charged. Any subsequent change or changes in my duties, salary or compensation will not affect the validity or scope of this Agreement.
- C.** Nothing contained herein shall be construed to require the commission of any act contrary to law. Should there be any conflict between any provisions hereof and any present or future statute, law, ordinance, regulation, or other pronouncement having the force of law, the latter shall prevail, but the provision of this Agreement affected thereby shall be curtailed and limited only to the extent necessary to bring it within the requirement of the law, and the remaining provisions of this Agreement shall remain in full force and effect.
- D.** This Agreement may not be assigned by me without the prior written consent of Global Eagle. Subject to the foregoing sentence, this Agreement will be binding upon my heirs, executors, administrators and other legal representatives and will be for the benefit of Global Eagle, its successors, and its assigns.
- E.** The provisions of this Agreement are severable, and if any one or more provisions may be determined to be illegal or otherwise unenforceable, in whole or in part, the remaining provisions or parts thereof shall nevertheless be binding and enforceable. In the event that any provision of this Agreement is deemed unenforceable, Global Eagle and I agree that a court or an arbitrator chosen pursuant to the terms hereof shall reform such provision to the extent necessary to cause it to be enforceable to the maximum extent permitted by law. Global Eagle and I agree that each desires the court or arbitrator to reform such provision, and therefore agree that the court or

arbitrator will have jurisdiction to do so and that each will abide by the determination of the court or arbitrator.

I have had the opportunity to review this Agreement at my leisure and have had the opportunity to ask questions regarding the nature of my employment with Global Eagle I have also been advised that I would be given the opportunity to allow my legal counsel to assist me in the review of this Agreement prior to my execution of this Agreement. I agree to execute any proper oath or verify any proper document required to carry out the terms of this Agreement. I represent that my performance of all the terms of this Agreement will not breach any agreement to keep in confidence proprietary information acquired by me in confidence or in trust prior to my employment by Global Eagle. I have not entered into, and I agree I will not enter into any oral or written agreements in conflict herewith.

[signature page follows]

I have read, and I understand and agree to comply with all conditions above without any reservation whatsoever.

Signature: /s/Joshua Marks

Date: August 4, 2015

Print Employee Name: Joshua Benegal Marks

Global Eagle Entertainment Inc.

By: /s/ Jay Itzkowitz

Name: Jay Itzkowitz

Title: SVP and General Counsel

NY:1821823.6

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## **Attachment B**

### **SUMMARY OF REVENUE AND STRETCH PAYMENTS**

This Attachment B summarizes the amounts that may become payable to you on or following the date of this Agreement pursuant to the Merger Agreement and remains, in all respects, subject to the terms and conditions set forth in the Merger Agreement. In the event of an inconsistency between the terms in this Attachment and the Merger Agreement, then the Merger Agreement shall control.

#### **1. Revenue**

##### **Payments:**

Pursuant to and subject to the terms and conditions set forth in the Merger Agreement and to the extent not previously paid, you are eligible to earn your pro rata percentage (as set forth in the Merger Agreement) of up to an additional \$5,000,000 in the event that the revenue of Marks Systems exceeds a certain threshold amount (as set forth in the Merger Agreement) for the period from January 1, 2015 through December 31, 2016.

In accordance with, and subject to, the Merger Agreement, your pro rata percentage of any earned Revenue Payments will generally be paid on or before March 31, 2017 (subject to any reduction for transaction expenses pursuant to the Merger Agreement); provided, that, to the extent not already paid, any such Revenue Payments (i) will be accelerated if you are terminated without Cause or you resign with Good Reason prior to August 4, 2017, and (ii) will be forfeited in the event that you are terminated for Cause or resign without Good Reason prior to August 4, 2017; provided, however, that, in the event a Change of Control (as defined in the Merger Agreement) occurs prior to August 4, 2017, the forfeiture restriction described in this clause (ii) shall lapse and have no further force or effect.

#### **2. Stretch**

##### **Payments:**

Pursuant to and subject to the terms and conditions set forth in the Merger Agreement and to the extent not previously paid, you are eligible to earn your pro rata percentage (as set forth in the Merger Agreement) of up to an additional \$5,000,000 in the event that the revenue of Marks Systems exceeds a certain stretch threshold amount (as set forth in the Merger Agreement) in any four (4) consecutive calendar quarters starting October 1, 2015 and ending on the fourth calendar quarter ending December 31, 2019.

In accordance with, and subject to, the Merger Agreement, your pro rata percentage of any earned Stretch Payments will generally be paid within ninety (90) days of the

achievement of the stretch goal (subject to any reduction for transaction expenses pursuant to the Merger Agreement); provided, that, to the extent not already paid, any such Stretch Payments (i) will be accelerated if, prior to August 4, 2017, both (1) a Change of Control occurs and (2) concurrently with such Change of Control or thereafter (but prior to August 4, 2017) you are terminated without cause or you resign with Good Reason and (ii) will be forfeited in the event that you are terminated for Cause or you resign without Good Reason prior to August 4, 2017; provided, however, that, in the event a Change of Control occurs prior to August 4, 2017, the forfeiture restriction described in this clause (ii) shall lapse and have no further force or effect.

NY:1821823.6



**4553 GLENCOE AVENUE, SUITE 300  
MARINA DEL REY, CA 90292**

August 9, 2016

Kevin Trosian  
c/o Global Eagle Entertainment Inc.  
4553 Glencoe Ave., Suite 300  
Marina Del Rey, CA 90292

***Re: Amended and Restated Offer of Employment***

Dear Kevin:

Global Eagle Entertainment Inc. (the “Company”) is providing you this letter agreement (this “Agreement”), which amends and restates your prior Offer of Employment dated May 23, 2014 (as supplemented by that certain notice of promotion dated January 5, 2015 and as amended by that certain letter dated June 23, 2016, the “Original Offer”), on the following terms:

1 . **Position.** Your current title is SVP, Corporate Development and Investor Relations and you currently report to the Chief Executive Officer of the Company. This is a full-time position in the Company’s office in the Los Angeles, CA area. By signing this Agreement, you confirm to the Company that since the commencement of your employment you have had no contractual commitments or other legal obligations that would prohibit you from performing your duties for the Company.

2. **Period of Employment.** Subject to Section 10 below, your employment with the Company commenced on June 23, 2014 and will continue until you resign from the Company or your employment with the Company is terminated (the “Employment Period”).

3. **Cash Compensation.** The Company pays you a “base” salary at the rate of \$264,601 per year (as may be reviewed and adjusted from time to time in the discretion of the Company), less applicable withholdings and payroll taxes, payable in accordance with the Company’s standard payroll schedule. In addition to the foregoing base salary, subject to achieving certain performance milestones to be agreed upon in writing between you and your supervisor, you will be eligible for an annual performance bonus based on the GEE Annual Incentive Plan as in

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effect from time to time with a current target bonus at 50% of your annual base salary provided, that, final determination of eligibility and payment of all performance bonuses shall be subject to the complete discretion of the Compensation Committee of the Board of Directors of the Company.

4. **Equity Incentive.** In connection with the Original Offer, you were granted an option to purchase 125,000 shares of the Company's Common Stock. The option is subject to the terms and conditions applicable to options granted under the Global Eagle Entertainment Inc. Amended and Restated 2013 Equity Incentive Plan as in effect from time to time (the "Plan"). 25% of your option shares vested after twelve (12) months of continuous service, and the balance will vest in equal monthly installments over the following 36 months of continuous service, as described in the Plan; provided, that, in the event of a Change of Control (as defined below) and the termination of your employment without Cause (as defined below) within the twelve (12) month period following the Change of Control, all of your unvested shares pursuant to the foregoing grant will immediately vest. Any shares of Common Stock that you acquire through the exercise of any vested options may be subject to certain repurchase rights of the Company, as further set forth in the Plan.

5. **Severance Pay.** If, during the Employment Period, your employment with the Company is terminated by the Company with Cause, or if you resign for any reason, then you will only be entitled to receive your base salary through the date of termination and will not be entitled to any other salary, bonus, severance, compensation or benefits from the Company or affiliates thereafter, other than those expressly required under applicable law (such as the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended). If your employment with the Company is terminated by the Company without Cause during the Employment Period, and, within twenty-one (21) days of your termination you execute a general release in favor of the Company, its subsidiaries and their affiliates in the form provided by the Company and such release becomes effective and is not revoked, and you comply with the terms of this Agreement, you will be entitled to receive your base salary and medical benefits for a period equal to six (6) months after the date of termination. Subject to any requirements under applicable law, the severance payments payable to you pursuant to this offer letter will be paid over the six (6) months after the date of termination in accordance with the Company's normal payroll practices. For purposes of this offer letter, "Cause" will mean (i) the commission of a felony or other crime involving moral turpitude or the commission of any other act or omission involving misappropriation, dishonesty, unethical business conduct, disloyalty, fraud or breach of fiduciary duty, (ii) reporting to work under the influence of alcohol, (iii) the use of illegal drugs (whether or not at the workplace) or other conduct, even if not in conjunction with his duties hereunder, which could reasonably be expected to, or which does, cause the Company or any of its Subsidiaries material public disgrace, disrepute or economic harm, (iv) repeated failure to perform duties as reasonably directed by the Board and/or the Company's principal executive officer, (v) gross negligence or willful misconduct with respect to the Company or affiliates or in the performance of your duties hereunder, (vi) obtaining any personal profit not thoroughly disclosed to and approved by the Board in connection with any

transaction entered into by, or on behalf of, the Company, its subsidiaries or any of their affiliates, or (vii) materially violating any of the terms of the Company's, its subsidiaries' or any of their affiliates' rules or policies which, if curable, is not cured to the Board's satisfaction within fifteen (15) days after written notice thereof to you, or any other breach of this offer letter or any other agreement between you and the Company or any of its Subsidiaries which, if curable, is not cured to the Board's satisfaction within fifteen (15) days after written notice thereof to you.

6. **Change in Control.** For purposes of this Agreement, "Change in Control" shall mean (i) the consummation of a merger or consolidation of the Employer with or into another entity or any other corporate reorganization, if persons who were not the ultimate equity owners of the Employer immediately prior to such merger, consolidation or other reorganization own immediately after such merger, consolidation or other reorganization 50% or more of the voting power of the outstanding securities of each of (A) the continuing or surviving entity and (B) any direct or indirect parent corporations of such continuing or surviving entity; or (ii) the sale, transfer or other disposition of all or substantially all of the Employer's assets; A transaction shall not constitute a Change in Control if its principal purpose is to combine the entities comprising the Employer, change the state of the Employer's incorporation or to create a holding company that will be owned in substantially the same proportions by the ultimate equity owners of the Employer's securities immediately before such transaction.

7. **Employee Benefits.** You will be entitled to receive standard employee benefits made available by the Company from time to time to its employees to the full extent of your eligibility. Details of these benefits will be provided to you under separate cover. At present, the Company offers medical, dental, vision, and 401K plans. You will be entitled to fifteen (15) days of personal time off per year and the other holidays normally observed by the Company during the year.

8. **Expense Reimbursement.** The Company shall reimburse you for all reasonable business expenses actually incurred or paid by you in the performance of your services on behalf of the Company in accordance with the Company's expense reimbursement policy. All reimbursable expenses shall be appropriately documented in reasonable detail by Employee upon submission of any request for reimbursement, and in a format and manner consistent with the Company's expense reporting policies and procedures, as well as applicable federal and state tax record-keeping requirements.

9. **Proprietary Information and Inventions Agreement.** As a condition of your employment with the Company, you previously signed the Company's Proprietary Information and Inventions Agreement, and such signed copy is attached hereto as Attachment A.

10. **Employment Relationship.** Your employment with the Company will be “at will,” meaning that either you or the Company may terminate your employment at any time and for any reason, with or without cause. Any contrary representations that may have been made to you are superseded by this letter agreement. This is the full and complete agreement between you and the Company on this term. Although your job duties, title, compensation and benefits, as well as the Company’s personnel policies and procedures, may change from time to time, the “at will” nature of your employment may only be changed in an express written agreement signed by you and a duly authorized officer of the Company (other than you).

11. **Outside Activities.** While you render services to the Company, you agree that you will not engage in any other employment, consulting or other business activity without the prior written consent of the Chief Executive Officer. While you render services to the Company, you also will not assist any person or entity in competing with the Company, in preparing to compete with the Company or in hiring any employees or consultants of the Company.

12. **Withholding Taxes.** All forms of compensation referred to in this letter agreement are subject to reduction to reflect applicable withholding and payroll taxes and other deductions required by law.

13. **Drug Testing and Background Check .** As a condition of employment by the Company, you previously authorized the Company to conduct a background check prior to your commencing work at the Company, which included a criminal investigation and verification of citizenship/immigration status, employment history, and education. In consideration for the offer of employment set forth herein, you hereby waive any and all claims that you may have against the Company for invasion of your privacy in respect of the drug testing and background checks referenced above.

14. **Entire Agreement.** This letter agreement supersedes and replaces any prior agreements, representations or understandings, whether written, oral or implied, between you and the Company, including the Original Offer.

\*\*\*\*\*

You may indicate your agreement with these terms and accept these terms by signing and dating the enclosed duplicate original of this letter agreement and returning it to the undersigned.

Very truly yours,

GLOBAL EAGLE ENTERTAINMENT INC.

By: /s/ Zant Chapelo

Printed Name: Zant Chapelo

Title: SVP–People & Organization Development

I have read and accept the terms in this letter agreement:

/s/ Kevin D. Trosian

Signature of Kevin D. Trosian

Dated: August 9, 2016

**Attachment**

Attachment A: Confidentiality, Proprietary Information and Invention Assignment

**Attachment A**

**GLOBAL EAGLE ENTERTAINMENT INC.  
EMPLOYEE STATEMENT & AGREEMENTS REGARDING  
CONFIDENTIALITY, PROPRIETARY INFORMATION  
AND INVENTION ASSIGNMENT**

In consideration of and as a condition of my employment and continued employment with Global Eagle Entertainment Inc., its subsidiaries, affiliates, successors or assigns (together “Global Eagle”), and my receipt of the salary and other compensation to be paid to me by Global Eagle, I, the undersigned employee, do hereby agree to the following (this “Agreement”):

**1. PROPRIETARY INFORMATION, COPYRIGHTS, MASK WORKS & INVENTIONS**

Global Eagle is an electronics, entertainment and services firm engaged in the research, development, manufacturing, sale, support and provision of electronic and communication systems, entertainment content, content logistics and processing, and components and materials for providing broadband internet, video and voice services on aircraft (the “Business of Global Eagle”).

The success of Global Eagle depends, among other things, upon strictly maintaining confidential and secret information relating to its trade secrets, technology, accounting, costs, research, development, sales, manufacturing, methods, production, testing, implementation, marketing, financial information, financial results, products, customers, suppliers, staffing levels, employees, shareholders, officers and other information peculiarly within the knowledge of and relating to the Business of Global Eagle, and to which employees may acquire knowledge or have access to during the course of their employment by Global Eagle. All such information is hereinafter collectively referred to as “Proprietary Information.” Proprietary Information shall be broadly defined. It includes all information, data, trade secrets or know-how that has or could have commercial value or other utility in the Business of Global Eagle or in which it contemplates engaging. Proprietary Information also includes all information the unauthorized disclosure of which is or could be detrimental to the interests of Global Eagle, whether or not such information is identified as confidential or proprietary information by Global Eagle.

Notwithstanding the above, Proprietary Information shall not include any information, data, trade secrets or know-how that (i) I can prove was known by me prior to the commencement of my employment with Global Eagle or (ii) is or becomes publicly known from another source that is under no obligation of confidentiality to Global Eagle without fault on my part. I do not know any

information, data, trade secrets or know-how that would be Proprietary Information but for this provision.

The success of Global Eagle also depends upon the timely disclosure of inventions made by Global Eagle employees in the course of their employment and, in appropriate circumstances, the full cooperation of employee inventors in filing, maintaining and enforcing United States and foreign country patent applications and patents covering such inventions.

In view of the foregoing and in consideration of my employment by Global Eagle and as a further condition thereof, I agree as follows:

**A. PREVIOUS  
EMPLOYMENT**

I acknowledge that it is the policy of Global Eagle to require that its employees strictly honor all obligations regarding proprietary information of former employers. I acknowledge and agree that I have a continuing obligation to protect and safeguard the proprietary information of my former employer(s), if any. I agree to read my agreement(s), if any, with my former employers(s) with respect to proprietary information and to abide by all the terms and conditions set forth therein.

**B. PROPRIETARY  
INFORMATION**

I shall use my best efforts to exercise utmost diligence to protect and guard the Proprietary Information of Global Eagle. Neither during my employment by Global Eagle nor thereafter shall I, directly or indirectly, use for myself or another, or disclose to another, any Proprietary Information (whether acquired, learned, obtained or developed by me alone or in conjunction with others) of Global Eagle, except as such disclosure or use is (i) required in connection with my employment with Global Eagle, (ii) consented to in writing by Global Eagle or (iii) legally required to be disclosed pursuant to a subpoena or court order, and in the case of (iii), disclosure may only be made after I have informed Global Eagle of such requirement and assisted Global Eagle in taking reasonable steps to seek a protective order or other appropriate action. I agree not to remove any materials relating to the work performed at Global Eagle without the prior written permission of the Board of Directors of Global Eagle. Upon request by Global Eagle at any time, including the event of my termination of employment with Global Eagle, I shall promptly deliver to Global Eagle, without retaining any copies, notes or excerpts thereof, all memoranda, journals, notebooks, diaries, notes, records, plats, sketches, plans, specifications, or other documents (including documents on electronic media) relating directly or indirectly to any Proprietary Information made or compiled by or delivered or made available to or otherwise obtained by me. Each of the foregoing

obligations shall apply with respect to Proprietary Information of customers, contractors and others with whom Global Eagle has a business relationship, learned or acquired by me during the course of my employment by Global Eagle. The provisions of this section shall continue in full force and effect after my termination of employment for whatever reason.

**C. COPYRIGHT & MASK WORKS**

All rights in and to any copyrightable material (including, but not limited to, computer programs) or material protectable as a mask work under the Semiconductor Chip Protection Act of 1984 which I may originate pursuant to or in connection with the Business of Global Eagle, and which are not expressly released by Global Eagle in writing, shall be deemed as a work for hire and shall be the sole and exclusive property of Global Eagle, its successors, assigns or other legal representatives.

**D. INVENTIONS**

With the exception of "EXEMPT" inventions, as defined herein, any and all inventions, including original works of authorship, concepts, trade secrets, improvements, developments and discoveries, whether or not patentable or registrable under copyright or similar laws, which I may conceive or first reduce to practice (or cause to be conceived or first reduced to practice), either alone or with others during the period of my employment by Global Eagle (hereinafter referred to as "Global Eagle Inventions") shall be the sole and exclusive property of Global Eagle, its successors, assigns, designees, or other legal representatives ("Global Eagle Representatives") and shall be promptly disclosed to Global Eagle in writing, and I hereby assign to Global Eagle all of my right, title and interest in such Global Eagle Inventions.

I agree to keep and maintain adequate and current written records of all Global Eagle Inventions and their development that I make (solely or jointly with others) during the period of employment. These records will be in the form of notes, sketches, drawings, and any other format that may be specified by Global Eagle. The records will be available to and remain the sole property of Global Eagle at all times.

I shall, without further compensation or consideration, but at no expense to me:

- (a) Communicate to Global Eagle any facts known by me respecting said Global Eagle Inventions;

- (b) do all lawful acts, including the execution and delivery of all papers and proper oaths and the giving of testimony deemed necessary or desirable by Global Eagle or Global Eagle Representatives, with regard to said Global Eagle Inventions, for protecting, obtaining, securing rights in, maintaining and enforcing any and all copyrights, patents, mask work rights or other intellectual property rights in the United States and throughout the world for said Global Eagle Inventions, and for perfecting, affirming, recording and maintaining in Global Eagle and Global Eagle Representatives sole and exclusive right, title and interest in and to the Global Eagle Inventions, and any copyrights, Patents, mask work rights or other intellectual property rights relating thereto; and
- (c) generally cooperate to the fullest extent in all matters pertaining to said Global Eagle Inventions, original works of authorship, concepts, trade secrets, improvements, developments and discoveries, any and all applications, specifications, oaths, assignments and all other instruments which Global Eagle shall deem necessary in order to apply for and obtain such rights and in order to assign and convey to Global Eagle, its successors, assigns and nominees the sole and exclusive rights, title and interest in and to such Global Eagle Inventions, and any copyrights, patents, mask work rights or other intellectual property rights relating thereto.

An "EXEMPT" invention is one which:

- (a) was developed entirely on my own time without using Global Eagle equipment, supplies, facilities, or trade secret information;
- (b) does not relate at the time of conception or reduction to practice of the invention to Global Eagle business, or to its actual or demonstrably anticipated research or development; and
- (c) does not result from any work performed by me for Global Eagle.

Inventions which I consider to be "EXEMPT" but made solely or jointly with others during the term of my employment, shall be disclosed in confidence to Global Eagle for the purpose of determining such issues as may arise.

I acknowledge and agree that my obligations with respect to the foregoing shall continue after the termination of my employment with Global Eagle. If Global Eagle is unable because of my mental or physical incapacity or for any other reason to secure my signature to apply for or to pursue any application for any United States

or foreign patents or copyright registrations covering Global Eagle Inventions or original works of authorship assigned to Global Eagle as above, then I hereby irrevocably designate and appoint Global Eagle and its duly authorized officers and agents as my agent and attorney in fact, to act for and in my behalf and stead to execute and file any such applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters, patents or copyright registrations thereon with the same legal force and effect as if executed by me.

Listed on the attached sheet by descriptive title for purposes of identification only are all of the inventions made by me (conceived and reduced to practice) prior to my employment by Global Eagle that I consider to be my property and excluded from this Agreement.

#### **NOTICE UNDER SECTION 2872**

This Agreement has been drafted to be in conformance with Section 2870 of Article 3.5 (INVENTIONS MADE BY EMPLOYEE) of the Labor Code of the State of California as amended 1991 and, as required by Section 2872, notification is hereby given that this Employment Agreement does not apply to an invention which qualifies as an "EXEMPT" invention under the provisions of Section 2870. Global Eagle reserves the right to modify Provision D to conform to applicable state or federal law. Please note that your obligations under this Agreement may change pursuant to changes in the law of the State of California. California Labor Code Section 2870 reads as follows:

(a) Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either: (1) Relate at the time of conception or reduction to practice of the invention to the employer's business, or actual or demonstrably anticipated research or development of the employer; or (2) Result from any work performed by the employee for the employer, (b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable.

## **2. NON-COMPETITION AND NON-SOLICITATION**

I acknowledge and agree that Global Eagle is entitled to protect its legitimate business interests and investments and prevent me from using my knowledge of its trade secrets and Proprietary Information to the detriment of Global Eagle. I also acknowledge that the nature of the business

of Global Eagle is such that the on-going relationship among Global Eagle and its employees, clients and customers is material and has a significant effect on the ability of Global Eagle to obtain business. In view of the foregoing and in consideration of my employment by Global Eagle and as further condition thereof, I agree as follows:

**A. NON-COMPETITION**

During the period of my employment, I will use my best efforts, skill and judgment to promote and advance Global Eagle's business interests and refrain from competing, directly or indirectly, with Global Eagle.

**B. NON-SOLICITATION**

During the period of my employment and for one (1) year thereafter (the "Restricted Period"), I will not, without Global Eagle's prior written consent, directly or indirectly, induce, knowingly solicit or encourage to leave the employment of Global Eagle, any employee of Global Eagle.

I acknowledge that the limits set forth herein are reasonable and properly required to adequately protect Global Eagle's legitimate business interests and to prevent unfair competition. However, if in any proceeding, a court or arbitrator shall refuse to enforce this Agreement, whether because the time limit is too long or because the restrictions contained herein are more extensive (whether as to geographic area, scope of business or otherwise) than is necessary to protect the business of Global Eagle, it is expressly understood and agreed between the parties hereto that this Agreement is deemed modified to the extent necessary to permit this Agreement to be enforced in any such proceedings.

**3. ARBITRATION**

Any and all claims or controversies arising out of or relating to my employment, the termination thereof, or otherwise arising between the parties hereto shall, in lieu of a jury or other civil trial, be settled by final and binding arbitration before a single arbitrator in Los Angeles, California, in accordance with then-current rules of the American Arbitration Association applicable to employment disputes. This agreement to arbitrate includes all claims whether arising in tort or contract and whether arising under statute or common law including, but not limited to, any claim of breach of contract, discrimination or harassment of any kind. The obligation to arbitrate such claims shall continue forever, and the arbitrator shall have jurisdiction to determine the arbitrability of any claim. The arbitrator shall have the authority to award any and all damages otherwise recoverable in a court of law. The arbitrator shall not have the authority to add to, subtract from or modify any of the terms of this Agreement. Judgment on any award rendered by the arbitrator may be entered and enforced by any court having jurisdiction thereof. I agree to pay the then-current

Superior Court of California filing fee towards the costs of the arbitration (i.e., filing fees, administration fees, and arbitrator fees), and each party shall be responsible for paying its own other costs for the arbitration, including, but not limited to, attorneys' fees, witness fees, transcript fees, or other litigation expenses. I shall not be required to pay any type or amount of expense if such requirement would invalidate this agreement or would otherwise be contrary to the law as it exists at the time of the arbitration. The prevailing party in any arbitration shall be entitled to recover its reasonable attorney's fees and costs, where authorized by contract or statute.

This section does not apply or restrict either party hereto from seeking equitable relief, including injunctive relief, from any court having competent jurisdiction for violating this Agreement or any applicable law.

#### **4. EQUITABLE RELIEF**

I expressly agree and understand that in the event that I breach this Agreement it will result in irreparable harm to Global Eagle, and that the damages flowing from such breach cannot be adequately measured in monetary terms. I further expressly acknowledge that the remedy at law for any such breach of this Agreement will be inadequate. Accordingly, it is agreed that Global Eagle shall be entitled, among other remedies, to immediate equitable relief, from a court having jurisdiction over the matter including a temporary restraining order, preliminary injunction and permanent injunction for any such breach or threatened breach. The party prevailing in any such action or proceeding shall be paid all reasonable attorneys' fees by the other party as well as costs.

#### **5. GENERAL PROVISIONS**

- A.** This Agreement will be governed by the laws of the State of California.
- B.** This Agreement sets forth the entire agreement and understanding between Global Eagle and me relating to the subject matter herein and merges all prior discussions between us. No modification of or amendment to this Agreement, nor any waiver or any rights under this Agreement, will be effective unless in writing signed by the party to be charged. Any subsequent change or changes in my duties, salary or compensation will not affect the validity or scope of this Agreement.
- C.** Nothing contained herein shall be construed to require the commission of any act contrary to law. Should there be any conflict between any provisions hereof and any present or future statute, law, ordinance, regulation, or other pronouncement having the force of law, the latter shall prevail, but the provision of this Agreement affected thereby shall be curtailed and limited only to the extent necessary to bring it within the requirement of the law, and the remaining provisions of this Agreement shall remain in full force and effect.

- D.** This Agreement may not be assigned by me without the prior written consent of Global Eagle. Subject to the foregoing sentence, this Agreement will be binding upon my heirs, executors, administrators and other legal representatives and will be for the benefit of Global Eagle, its successors, and its assigns.
  
- E.** The provisions of this Agreement are severable, and if any one or more provisions may be determined to be illegal or otherwise unenforceable, in whole or in part, the remaining provisions or parts thereof shall nevertheless be binding and enforceable. In the event that any provision of this Agreement is deemed unenforceable, Global Eagle and I agree that a court or an arbitrator chosen pursuant to the terms hereof shall reform such provision to the extent necessary to cause it to be enforceable to the maximum extent permitted by law. Global Eagle and I agree that each desires the court or arbitrator to reform such provision, and therefore agree that the court or arbitrator will have jurisdiction to do so and that each will abide by the determination of the court or arbitrator.

I have had the opportunity to review this Agreement at my leisure and have had the opportunity to ask questions regarding the nature of my employment with Global Eagle I have also been advised that I would be given the opportunity to allow my legal counsel to assist me in the review of this Agreement prior to my execution of this Agreement. I agree to execute any proper oath or verify any proper document required to carry out the terms of this Agreement. I represent that my performance of all the terms of this Agreement will not breach any agreement to keep in confidence proprietary information acquired by me in confidence or in trust prior to my employment by Global Eagle. I have not entered into, and I agree I will not enter into any oral or written agreements in conflict herewith.

[signature page follows]

I have read, and I understand and agree to comply with all conditions above without any reservation whatsoever.

Signature: /s/ Kevin Trosian

Date: May 27, 2014

Print Employee Name: Kevin Trosian

Global Eagle Entertainment Inc.

By: /s/ Zant Chapelo

Name: Zant Chapelo

Title: SVP Human Resources

## NON-COMPETITION AND NON-SOLICITATION AGREEMENT

This Non-Competition and Non-Solicitation Agreement (this “Agreement”) is entered into as of May 9, 2016, by and among Global Eagle Entertainment Inc., a Delaware corporation (“Buyer”), and EMC Intermediate LLC, a Delaware limited liability company (the “Company”), on the one hand, and Abel Avellan (the “Restricted Party”), on the other hand. Buyer, the Company and the Restricted Party are referred to collectively herein as the “Parties” and individually as a “Party.”

A. Pursuant to the terms and conditions set forth in that certain Interest Purchase Agreement, dated May 9, 2016 (the “Purchase Agreement”), by and between Buyer and EMC Acquisition Holdings, LLC, a Delaware limited liability company (“Seller”), Buyer is purchasing from Seller all of the equity interests in the Company, and in consideration therewith, Buyer is paying to Seller the purchase price described in the Purchase Agreement on the terms and subject to the conditions set forth therein.

B. As a condition to the obligation of Buyer to consummate the transactions to be performed by Buyer in connection with the closing of the transactions contemplated by the Purchase Agreement, Buyer requires the Restricted Party to enter into this Agreement, and in order to induce Buyer to consummate the transactions to be performed by Buyer in connection with the closing of the transactions contemplated by the Purchase Agreement, the Restricted Party has agreed to the covenants set forth in this Agreement.

C. The Restricted Party’s entry into this Agreement is an essential part of the transactions contemplated by the Purchase Agreement, and this Agreement is necessary for the protection of Buyer’s acquisition of the Business. The Restricted Party (i) is an equity owner, directly or indirectly, of the Company and an executive employee of the Company, (ii) will derive, directly or indirectly, substantial benefits as a result of the consummation of the transactions contemplated by the Purchase Agreement, and (iii) has confidential and proprietary information relating to the Business and (iv) is integral to the operation of the Business to be acquired by Buyer pursuant to the Purchase Agreement.

D. Each capitalized term used and not otherwise defined herein shall have the meaning assigned to such term in the Purchase Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual promises herein made, and for other good and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Defined Terms. As used in this Agreement, the following terms shall have the meanings specified below:

(a) “Affiliates” means, with respect to the Person to which it refers, a Person that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common

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control with, such Person. For purposes of this definition, the term "control" of a Person shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies, whether through the ownership of voting securities, by contract or otherwise.

(b) “Affiliated Companies” means, collectively, the Company, Buyer and all of their respective direct and indirect Affiliates and Subsidiaries, including any successors in interest to any such Affiliates and Subsidiaries.

(c) “Business” means the business of (i) providing internet connectivity to ships, cruise lines, yachts and related maritime users, (ii) providing internet connectivity to communications users and (iii) providing any other products or services that the Company or any of its Subsidiaries provide at any time during the twelve (12) months prior to the Effective Date.

(d) “Restricted Activities” means the Business and any business that competes with the Business.

(e) “Restricted Area” means any geographic area in which any of the Affiliated Companies actively conducts the Business as of the Effective Date.

(f) “Restricted Party Group” means, collectively, the Restricted Party and its Affiliates.

(g) “Restricted Period” means the period commencing on the Effective Date and expiring on the third (3rd) anniversary of the Effective Date.

2. Effective Date. This Agreement shall commence on the date hereof immediately upon (and only upon) the Closing (the “Effective Date”). This Agreement shall be null and void and of no effect if the Purchase Agreement is terminated at any time prior to the Closing.

3. Restrictive Covenants. The Restricted Party acknowledges that (i) the Restricted Party has access to trade secrets of and confidential information concerning the Business; (ii) the Business includes the Restricted Area; (iii) Buyer would not have entered into the Purchase Agreement but for the agreements and covenants contained herein; and (iv) the agreements and covenants contained herein are essential to protect the Business, goodwill, trade secrets and confidential information related to the Business. The Restricted Party covenants and agrees that:

(a) *Non-Competition*. During the Restricted Period, the Restricted Party, on behalf of the Restricted Party and the other members of the Restricted Party Group, shall not, and shall cause each of the other members of the Restricted Party Group not to, directly or indirectly, in any manner (whether on its, his or her own account, or as an owner, operator, manager, consultant, officer, director, employee, investor, agent or otherwise), (i) engage in the Restricted Activities in the Restricted Area or (ii) be employed by, invest in, have any ownership interest in, participate in (whether as an owner, operator, manager, consultant, officer, director, employee, investor, agent, representative or otherwise), act as lender to, render services to (as an employee, director, officer, member, principal, licensor, trustee, broker, agent, shareholder, partner, equityholder or in any other capacity), operate, assist, represent, advise or otherwise provide support to, any Person that engages in or plans to engage in the Restricted Activity in the Restricted Area; provided, however, that the Restricted Party shall not be deemed in violation of this non-competition covenant by passive

ownership in Trio Connect, LLC provided that the Restricted Party is not involved in management or day to day operations of Trio Connect, LLC and provided further that Trio Connect LLC is not conducting any business other than providing triple play services to land-based individuals. Notwithstanding the foregoing, the Restricted Party, and the other members of the Restricted Party Group, may, directly or indirectly, (i) own, solely as an investment, securities of any Person traded on any national securities exchange if neither the Restricted Party nor any other member of the Restricted Party Group is a controlling Person of, or a member of a group which controls, such Person and does not, directly or indirectly, own two percent (2%) or more of any outstanding class of securities of such Person, or (ii) invest as a limited partner in any private equity or venture backed fund other than a fund with a focus of satellite communication platforms, provided that such investment does not exceed two percent (2%) ownership of such fund.

(b) *Non-Solicitation.* During the Restricted Period, the Restricted Party, on behalf of the Restricted Party and the other members of the Restricted Party Group, shall not, and shall cause each of the other members of the Restricted Party Group not to, directly or indirectly, in any manner (whether on its, his or her own account, or as an owner, operator, manager, consultant, officer, director, employee, investor, agent or otherwise), (i) cause, induce, call upon, solicit, request, advise or encourage any actual or prospective consultant, licensor, supplier or vendor of the Business or any other Person who has any business relationship with the Business or any Affiliated Company to terminate, modify or otherwise curtail or impair any such actual or prospective relationship with the Business, (ii) cause, induce, call upon, solicit, request, advise, encourage or provide services to any actual or prospective customer of the Business or any Affiliated Company with the intent of selling or attempting to sell any products or services similar to those offered by the Business, (iii) cause, induce, call upon, solicit, request, advise, recruit, encourage any Person currently, or formerly within the last twelve (12) months, employed by, or providing consulting services, to any Affiliated Company (each, an “Employee”) to leave the employment or engagement of any Affiliated Company, (iv) hire, employ or otherwise engage, or enter into any business relationship with, any Employee who has left the employment or engagement of any of the Affiliated Companies or (v) otherwise in any way interfere with, influence or alter any Affiliated Company’s relationship with any actual Employee or consultant or actual or prospective customer, sales representative, broker, licensor, supplier, vendor or other business relation of the Business or any Affiliated Company, employed by, engaged with or in a business relationship with the Company as of the Effective Date or at any time during the Restricted Party’s employment with any of the Affiliated Companies, including by making any negative or disparaging statements or communications regarding any Affiliated Company or any of its respective operations, officers, directors, managers or investors.

(c) *Confidentiality.* The Restricted Party, on behalf of the Restricted Party and the other members of the Restricted Party Group, shall not, and shall cause each of the other members of the Restricted Party Group and his or hers and their respective representatives not to, directly or indirectly, disclose, reveal, release, divulge or communicate to any Person other than authorized representatives of the Affiliated Companies or use or otherwise exploit for the benefit of the Restricted Party or any other Person (other than any of the Affiliated Companies) any and all information and data in whatever form, tangible or intangible, whether written or oral, that concerns or relates to in any way to the Business of the Affiliated Companies, including all confidential and proprietary information, research, designs, customer lists, details of customer, vendor or supplier

contracts, pricing policies, operational methods, marketing plans or strategies, customer profiles, materials prepared for customers, financial information, product development techniques or plans, business acquisition plans, personnel information and other business affairs relating to the Business (collectively, the “Confidential Information”); provided, however, that, notwithstanding the foregoing, it is acknowledged and agreed that the Restricted Party may disclose Confidential Information to any Governmental Body, but only to the extent required by applicable Law, provided that in such event the Restricted Party shall provide as much prior notice as possible of such disclosure to Buyer and the Company, exercise all commercially reasonable efforts to preserve the confidentiality of the Confidential Information, including reasonably cooperating with Buyer and the Company (at Buyer’s sole expense) to obtain an appropriate order or other reliable assurance that confidential treatment shall be accorded such information or data by such Governmental Body and shall disclose only that portion of the Confidential Information which the Restricted Party is legally required to disclose. Notwithstanding the foregoing, the confidentiality provisions of this Section 3(c) shall not apply to any Confidential Information which has been, is, or will be generally available to the public other than as a result of a disclosure in violation of this Agreement, of the Purchase Agreement or of any other Non-Competition and Non-Solicitation Agreement entered into by the other Restricted Parties in connection with the Closing.

#### 4. Rights and Remedies Upon Breach.

(a) *Equitable Remedies.* The Parties hereby agree that, in the event of breach of this Agreement by any member of the Restricted Party Group (including the Restricted Party), including any of the provisions of Section 3 (collectively, the “Restrictive Covenants”), damages would be difficult, if not impossible, to ascertain, that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that, in addition to and without limiting any other remedy or right it may have, each of Buyer and the Company shall be entitled to an injunction or other equitable relief in any court of competent jurisdiction, without any necessity of proving damages or any requirement for the posting of a bond or other security, enjoining any such breach, and enforcing specifically the terms and provisions. The Restricted Party on behalf of the Restricted Party and the other members of the Restricted Party Group, hereby waives any and all defenses any member of the Restricted Party Group may have on the ground of lack of jurisdiction or competence of the court to grant such an injunction or other equitable relief. The Restricted Period under Sections 3(a) and 3(b) shall be extended by the number of days in which the member of the Restricted Party Group is in violation or breach of this Agreement. The covenants in this Agreement are independent, and the existence of any claim or cause of action of any member of the Restricted Party Group against Buyer or the Company, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement of this Agreement by Buyer and the Company.

(b) *Accounting.* Buyer and the Company shall be entitled to seek to require the Restricted Party to account for and pay over to Buyer and the Company all compensation, profits, monies, accruals, increments or other benefits derived or received by any member of the Restricted Party Group as the result of any transactions, events, circumstances or occurrences constituting a violation or breach of or failure to perform obligations under this Agreement by any member of the Restricted Party Group, including any of the Restrictive Covenants.

(c) *Remedies Cumulative*. All rights and remedies of Buyer and the Company under this Agreement shall be cumulative and in addition to, and not in lieu of, any other rights and remedies available to Buyer and the Company under Law or in equity.

5. Other Obligations. The terms of this Agreement supplement and do not replace any other agreements to which any member of the Restricted Party Group may be a party or other obligations any member of the Restricted Party Group may have under laws regarding confidentiality, non-disclosure, assignment of inventions, or the protection of intellectual property, including any employment agreement, consulting agreement or offer letter between any member of the Restricted Party Group and any of the Affiliated Companies or any agreement between any member of the Restricted Party Group and any of the Affiliated Companies.

6. Warranty and Freedom to Contract. The Restricted Party represents and warrants to Buyer and the Company that (a) none of the Restricted Party or any other member of the Restricted Party Group is under legal disability and (b) there are no restrictions, agreements or understandings, oral or written, to which the Restricted Party or any other member of the Restricted Party Group is a party or by which the Restricted Party or any other member of the Restricted Party Group is bound, in either case, that prevents or makes unlawful the Restricted Party's execution and delivery of this Agreement or performance of the terms and conditions of this Agreement to their fullest extent.

7. Terms of this Agreement; Right to Separate Counsel. The Restricted Party represents and warrants to Buyer and the Company that (a) the Restricted Party has carefully read all of the terms and conditions hereof and agrees they are necessary for the reasonable and proper protection of Buyer's investment in the Business and the Business, (b) Buyer was materially induced to enter into the Purchase Agreement by the Restricted Party's representation that the Restricted Party will abide by and be bound by each of the covenants and restraints contained herein, and (c) each and every covenant, restraint, limitation or other provision in this Agreement is reasonable in all respects, including the time period, geographic scope, subject matters and legal remedies of Buyer and the Company pertaining thereto. Without limiting the foregoing, the Restricted Party represents and warrants that the duration, breadth and geographic scope of the Restrictive Covenants are reasonable and necessary in order to protect the value of the Business acquired by Buyer. In light of the foregoing, the Restricted Party acknowledges and agrees that (i) this Agreement, including the Restrictive Covenants, does not impose any undue hardship or unreasonable limitation on any of the members of the Restricted Party Group, (ii) this Agreement is no broader than reasonably necessary to afford Affiliated Companies with their legitimate desired protection and (iii) the potential harm to the Affiliated Companies of the non-enforcement of the Restrictive Covenants outweighs any potential harm to the members of the Restricted Party Group of their enforcement by injunction or otherwise. The Restricted Party acknowledges that the Restricted Party has been advised by Buyer and the Company that the Restricted Party is entitled to have this Agreement reviewed by counsel of the Restricted Party's choice, and has done so.

8. Consideration. This Agreement is executed in connection with, and as a condition of, the Purchase Agreement and the consummation of the transactions contemplated thereby. The Restricted Party acknowledges and agrees that the Affiliated Companies have a legitimate business interest in the protection of the Business, including the goodwill associated with the Restricted Party's specialized expertise and detailed knowledge of the nature and integral operations of the

Business and other confidential information relating thereto, and, as such, the Restricted Party acknowledges receipt of adequate consideration to execute and be bound by this Agreement for the benefit of the Affiliated Companies. The Restricted Party further acknowledges that as an equity owner of the Company, the Restricted Party will derive good and valuable consideration upon the Closing. Based upon the foregoing, the Restricted Party further acknowledges and agrees that the consideration provided herein and in the Purchase Agreement is full and adequate consideration for the Restrictive Covenants.

9. Responsibility for Restricted Party Group. The Restricted Party shall be responsible for any violations of the provisions hereof by any member of the Restricted Party Group.

10. Miscellaneous.

(a) *Severability.*

(i) Any term or provision of this Agreement that is invalid, illegal or unenforceable in any situation in any jurisdiction shall not affect the validity, legality or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. Upon a determination that any provision of this Agreement is invalid, illegal, or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that the transaction contemplated hereby is consummated as originally contemplated to the greatest extent possible.

(ii) Subject to Section 10(a)(i), if the final judgment of a court of competent jurisdiction declares that any of the Restrictive Covenants, or any part thereof, is invalid, illegal or unenforceable, (A) the court making the determination of invalidity, illegality or unenforceability shall have the power to reduce or modify the scope, duration or area of the Restrictive Covenant, as the case may be, to delete specific words or phrases, or to replace any invalid, illegal or unenforceable Restrictive Covenant with a Restrictive Covenant that is valid, legal and enforceable and that comes closer to expressing the intention of the invalid, illegal or unenforceable term or provision, and such Restrictive Covenant shall be enforceable as so reduced or modified after the expiration of the time within which the judgment may be appealed and shall then be incorporated herein by reference and treated as the covenant that has been agreed to by the Parties, and (B) it is the intention of the Parties that such determination not bar, or in any way affect, Buyer's or the Company's right to relief provided above in any court of any other jurisdiction, as to breaches of such covenants in such other respective jurisdictions, such Restrictive Covenants as they relate to each jurisdiction being, for this purpose, severable into diverse and independent covenants. In the event of litigation involving any of the Restrictive Covenants, the non-prevailing party shall reimburse the prevailing party for all costs and expenses, including reasonable attorneys' fees and expenses, incurred in connection with any such litigation, including any appeal therefrom. The existence of any claim or cause of action by any member of the Restricted Party Group against any Affiliated Company, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement by Buyer or the Company of the Restrictive Covenants, which Restrictive Covenants shall be enforceable notwithstanding the existence of any breach by Buyer or the

Company. Notwithstanding the foregoing, no member of the Restricted Party Group shall be prohibited from pursuing such claims or causes of action against Buyer or the Company.

(b) *Succession and Assignment.* This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. The Restricted Party may not assign either this Agreement or any of his or her rights, interests, or obligations hereunder. Buyer, the Company or any of the other Affiliated Companies may not assign this Agreement or any of its respective rights, interests, or obligations hereunder without the prior written approval of the Restricted Party; provided, however, that Buyer, the Company or such other Affiliated Company may (i) assign any or all of its rights and interests hereunder to one or more of its Affiliates and designate one or more of its Affiliates to perform its obligations hereunder (in any or all of which cases Buyer, the Company or such other Affiliated Company nonetheless shall remain responsible for the performance of all of its obligations hereunder), (ii) assign its rights under this Agreement for collateral security purposes to any lenders (including any Financing Sources) providing financing to the Buyer or any of the Affiliated Companies (including the Financing) or (iii) assign its rights under this Agreement to any Person that acquires Buyer, the Company or such other Affiliated Company or any of their respective assets.

(c) *Notices.* All notices, requests, demands, claims, and other communications hereunder shall be in writing. Any notice, request, demand, claim, or other communication hereunder shall be deemed duly given (i) when delivered personally to the recipient, (ii) when sent by electronic mail or facsimile, receipt confirmed, on the date of transmission to such recipient, (iii) one Business Day after being sent to the recipient by reputable overnight courier service (charges prepaid), or (iv) four (4) Business Days after being mailed to the recipient by certified or registered mail, return receipt requested and postage prepaid, and addressed to the intended recipient as set forth below:

If to the Restricted Party:	3044 North Commerce Parkway Miramar, FL 33025 Attention: Abel Avellan Facsimile: (786) 425-0679 Email: aavellan@emc-corp.net
Copy to:	Akerman LLP 777 South Flagler Drive, Suite 1100 West Tower West Palm Beach, FL 33401 Attention: Eric A. Gordon Fascimile: 561.659.6313 Email: eric.gordon@akerman.com
If to Buyer or the Company:	Global Eagle Entertainment Inc. 4553 Glencoe Avenue, Suite 300 Marina Del Ray, CA 90292 Attention: Stephen Ballas, Esq. Email: Stephen.Ballas@geemedia.com

Copy to: Winston & Strawn LLP  
200 Park Avenue  
New York, NY 10166  
Attention: Joel L. Rubinstein, Esq.  
Email: jrubinstein@winston.com  
Fax: (212) 294-5336

Any Party may change the address to which notices, requests, demands, claims, and other communications hereunder are to be delivered by giving the other Parties notice in the manner herein set forth.

(d) *Governing Law; Waiver of Jury Trial; Exclusive Venue* .

(i) This Agreement and any claim, controversy or dispute arising out of or related to this Agreement, any of the transactions contemplated hereby, the relationship of the Parties, and/or the interpretation and enforcement of the rights and duties of the Parties, whether arising in contract, tort, equity or otherwise, shall be governed by and construed in accordance with the domestic Laws of the State of Delaware (including in respect of the statute of limitations or other limitations period applicable to any such claim, controversy or dispute), without giving effect to any choice or conflict of Law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the Laws of any jurisdiction other than the State of Delaware.

(ii) EACH OF THE PARTIES WAIVES THEIR RESPECTIVE RIGHTS TO A TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OR RELATED TO THIS AGREEMENT IN ANY ACTION, PROCEEDING OR OTHER LITIGATION OF ANY TYPE BROUGHT BY ANY OF THE PARTIES AGAINST ANY OTHER PARTY OR ANY AFFILIATE OF ANY OTHER SUCH PARTY, WHETHER WITH RESPECT TO CONTRACT CLAIMS, TORT CLAIMS OR OTHERWISE. THE PARTIES AGREE THAT ANY SUCH CLAIM OR CAUSE OF ACTION SHALL BE TRIED BY A COURT TRIAL WITHOUT A JURY. WITHOUT LIMITING THE FOREGOING, THE PARTIES FURTHER AGREE THAT THEIR RESPECTIVE RIGHT TO A TRIAL BY JURY IS WAIVED BY OPERATION OF THIS SECTION AS TO ANY ACTION, COUNTERCLAIM OR OTHER PROCEEDING WHICH SEEKS, IN WHOLE OR IN PART, TO CHALLENGE THE VALIDITY OR ENFORCEABILITY OF THIS AGREEMENT OR ANY PROVISION HEREOF. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT.

(iii) THE PARTIES AGREE THAT ALL DISPUTES, LEGAL ACTIONS, SUITS AND PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT MUST BE BROUGHT EXCLUSIVELY IN A FEDERAL DISTRICT COURT LOCATED IN THE DISTRICT OF DELAWARE OR THE DELAWARE CHANCERY COURT IN NEW CASTLE COUNTY, DELAWARE (COLLECTIVELY THE "DESIGNATED COURTS"). EACH PARTY HEREBY CONSENTS AND SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE DESIGNATED COURTS. NO LEGAL ACTION, SUIT OR PROCEEDING WITH RESPECT TO THIS AGREEMENT MAY BE BROUGHT IN ANY OTHER FORUM. EACH PARTY HEREBY

IRREVOCABLY WAIVES ALL CLAIMS OF IMMUNITY FROM JURISDICTION AND ANY OBJECTION WHICH SUCH PARTY MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR PROCEEDING IN ANY DESIGNATED COURT, INCLUDING ANY RIGHT TO OBJECT ON THE BASIS THAT ANY DISPUTE, ACTION, SUIT OR PROCEEDING BROUGHT IN THE DESIGNATED COURTS HAS BEEN BROUGHT IN AN IMPROPER OR INCONVENIENT FORUM OR VENUE. EACH OF THE PARTIES ALSO AGREES THAT DELIVERY OF ANY PROCESS, SUMMONS, NOTICE OR DOCUMENT TO A PARTY HEREOF IN COMPLIANCE WITH SECTION 10(c) OF THIS AGREEMENT SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY ACTION, SUIT OR PROCEEDING IN A DESIGNATED COURT WITH RESPECT TO ANY MATTERS TO WHICH THE PARTIES HAVE SUBMITTED TO JURISDICTION AS SET FORTH ABOVE.

(e) *Entire Agreement*. This Agreement (including the documents referred to herein) constitutes the entire agreement among the Parties and supersedes any prior understandings, agreements, or representations by or among the Parties, written or oral, to the extent they relate in any way to the subject matter hereof.

(f) *Amendments and Waivers*. No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by the Parties. No waiver by any Party of any provision of this Agreement or any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, shall be valid unless the same shall be in writing and signed by the Party making such waiver nor shall such waiver be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

(g) *Headings*. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

(h) *Counterparts*. This Agreement may be executed in one or more counterparts (including by means of facsimile), each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

(i) *Construction*. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any Law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word “including” shall mean including without limitation.

(j) *No Third-Party Beneficiaries*. Except as expressly provided herein, this Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns.

***[Remainder of Page Intentionally Left Blank]***

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

**BUYER:**

**GLOBAL EAGLE ENTERTAINMENT INC.**

By: /s/ David M. Davis

Name: David M. Davis

Title: Chief Executive Officer

*Signature Page to Non-Competition and Non-Solicitation Agreement*

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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

**COMPANY:**

**EMC INTERMEDIATE, LLC**

By: /s/ Abel Avellan

Name: Abel Avellan Title: Founder and CEO

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

**RESTRICTED PARTY:**

By: /s/ Abel Avellan  
Name: Abel Avellan

## CERTIFICATION

I, David M. Davis, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Global Eagle Entertainment 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 statement 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 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer 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 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 controls 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 controls over financial reporting.

Date: August 9, 2016

/s/ David M. Davis

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David M. Davis  
Chief Executive Officer  
(principal executive officer)

## CERTIFICATION

I, Michael Zemetra, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Global Eagle Entertainment 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 statement 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 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer 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 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 controls 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 controls over financial reporting.

Date: August 9, 2016

/s/ Michael Zemetra

Michael Zemetra

Chief Financial Officer and Treasurer

(principal financial officer and principal accounting officer)

**CERTIFICATION PURSUANT TO  
18 U.S.C. 1350  
(SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002)**

I, David M. Davis, Chief Executive Officer of Global Eagle Entertainment Inc. (the "Company"), certify, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350, that, to the best of my knowledge:

- (1) the Quarterly Report on Form 10-Q of the Company for the quarter ended June 30, 2016 (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)); and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 9, 2016

/s/ David M. Davis

\_\_\_\_\_  
David M. Davis  
Chief Executive Officer  
(principal executive officer)

**CERTIFICATION PURSUANT TO  
18 U.S.C. 1350  
(SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002)**

I, Michael Zemetra, Chief Financial Officer and Treasurer of Global Eagle Entertainment Inc. (the "Company"), certify, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350, that, to the best of my knowledge:

(1) the Quarterly Report on Form 10-Q of the Company for the quarter ended June 30, 2016 (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)); and

(2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 9, 2016

/s/ Michael Zemetra

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Michael Zemetra

Chief Financial Officer and Treasurer

(principal financial officer and principal accounting officer)