

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

**Form 10-Q**

(Mark One)

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

For the quarterly period ended March 31, 2013

OR

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

Commission File Number 1-14443

**GARTNER, INC.**

(Exact name of Registrant as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

04-3099750  
(I.R.S. Employer  
Identification Number)

P.O. Box 10212  
56 Top Gallant Road  
Stamford, CT  
(Address of principal executive offices)

06902-7700  
(Zip Code)

Registrant's telephone number, including area code: (203) 316-1111

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 R No £

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes R 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 R

Accelerated filer £

Non-accelerated filer £

Smaller reporting company £

(Do not check if a smaller reporting company)

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

As of April 24, 2013, 93,751,149 shares of the registrant's common shares were outstanding.

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**PART I. FINANCIAL INFORMATION**

**ITEM 1. FINANCIAL STATEMENTS**

**GARTNER, INC.**  
Condensed Consolidated Balance Sheets  
(Unaudited; in thousands)

	<b>March 31,</b>	<b>December 31,</b>
	<b>2013</b>	<b>2012</b>
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 269,063	\$ 299,852
Fees receivable, net of allowances of \$6,120 and \$6,400, respectively	441,405	463,968
Deferred commissions	82,929	87,933
Prepaid expenses and other current assets	81,643	75,713
<b>Total current assets</b>	<u>875,040</u>	<u>927,466</u>
Property, equipment and leasehold improvements, net	88,508	89,089
Goodwill	516,525	519,506
Intangible assets, net	10,477	11,821
Other assets	76,845	73,395
<b>Total Assets</b>	<u>\$ 1,567,395</u>	<u>\$ 1,621,277</u>
<b>Liabilities and Stockholders' Equity</b>		
Current liabilities:		
Accounts payable and accrued liabilities	\$ 180,896	\$ 287,763
Deferred revenues	736,696	692,237
Current portion of long-term debt	57,500	90,000
<b>Total current liabilities</b>	<u>975,092</u>	<u>1,070,000</u>
Long-term debt	147,500	115,000
Other liabilities	125,646	129,604
<b>Total Liabilities</b>	<u>1,248,238</u>	<u>1,314,604</u>
<b>Stockholders' Equity</b>		
Preferred stock, \$.01 par value, 5,000,000 shares authorized; none issued or outstanding	—	—
Common stock, \$.0005 par value, 250,000,000 shares authorized; 156,234,415 shares issued for both periods	78	78
Additional paid-in capital	689,182	679,871
Accumulated other comprehensive income, net	2,763	5,968
Accumulated earnings	945,157	908,482
Treasury stock, at cost, 62,494,184 and 62,873,100 common shares, respectively	(1,318,023)	(1,287,726)
<b>Total Stockholders' Equity</b>	<u>319,157</u>	<u>306,673</u>
<b>Total Liabilities and Stockholders' Equity</b>	<u>\$ 1,567,395</u>	<u>\$ 1,621,277</u>

See the accompanying notes to the condensed consolidated financial statements.

**GARTNER, INC.**  
Condensed Consolidated Statements of Operations  
(Unaudited; in thousands, except per share data)

	Three Months Ended March 31,	
	2013	2012
<b>Revenues:</b>		
Research	\$ 310,331	\$ 274,620
Consulting	72,633	74,563
Events	23,790	19,988
<b>Total revenues</b>	<b>406,754</b>	<b>369,171</b>
<b>Costs and expenses:</b>		
Cost of services and product development	163,737	146,463
Selling, general and administrative	180,478	162,518
Depreciation	7,100	5,895
Amortization of intangibles	1,334	739
Acquisition and integration charges	100	—
<b>Total costs and expenses</b>	<b>352,749</b>	<b>315,615</b>
Operating income	54,005	53,556
Interest expense, net	(2,436)	(2,195)
Other income (expense), net	211	(978)
Income before income taxes	51,780	50,383
Provision for income taxes	15,105	16,162
Net income	\$ 36,675	\$ 34,221
<b>Income per common share:</b>		
Basic	\$ 0.39	\$ 0.37
Diluted	\$ 0.38	\$ 0.36
<b>Weighted average shares outstanding:</b>		
Basic	93,595	93,416
Diluted	95,537	96,199

See the accompanying notes to the condensed consolidated financial statements.

**GARTNER, INC.**  
Condensed Consolidated Statements of Comprehensive Income  
(Unaudited; in thousands)

	<b>Three Months Ended</b>	
	<b>March 31,</b>	
	<b>2013</b>	<b>2012</b>
Net income	\$ 36,675	\$ 34,221
Other comprehensive (loss) income, net of tax:		
Interest rate swap (cash flow hedge) – gain	561	32
Defined benefit pension plans – actuarial gain (loss)	23	(54)
Foreign currency translation adjustments	(3,789)	2,676
Other comprehensive (loss) income	(3,205)	2,654
Comprehensive income	\$ 33,470	\$ 36,875

See the accompanying notes to the condensed consolidated financial statements.

**GARTNER, INC.**  
Condensed Consolidated Statements of Cash Flows  
(Unaudited; in thousands)

	Three Months Ended March 31,	
	2013	2012
<b>Operating activities:</b>		
Net income	\$ 36,675	\$ 34,221
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization of intangibles	8,434	6,634
Stock-based compensation expense	12,342	10,939
Excess tax benefits from stock-based compensation	(13,219)	(13,784)
Deferred taxes	(1,872)	(1,664)
Amortization and write-off of debt issue costs	858	509
Changes in assets and liabilities, net of acquisition:		
Fees receivable, net	17,851	39,695
Deferred commissions	4,113	3,665
Prepaid expenses and other current assets	(4,467)	(6,105)
Other assets	(6,467)	(2,141)
Deferred revenues	51,019	34,822
Accounts payable, accrued, and other liabilities	(85,574)	(88,112)
<b>Cash provided by operating activities</b>	<u>19,693</u>	<u>18,679</u>
<b>Investing activities:</b>		
Additions to property, equipment and leasehold improvements	(9,648)	(7,118)
<b>Cash used in investing activities</b>	<u>(9,648)</u>	<u>(7,118)</u>
<b>Financing activities:</b>		
Proceeds from stock issued under stock plans	1,955	5,524
Proceeds from debt issuance	200,000	47,793
Payments for debt issuance costs	(3,553)	—
Payments on debt	(200,000)	(7,500)
Purchases of treasury stock	(48,527)	(77,157)
Excess tax benefits from stock-based compensation	13,219	13,784
<b>Cash used by financing activities</b>	<u>(36,906)</u>	<u>(17,556)</u>
<b>Net increase in cash and cash equivalents</b>	(26,861)	(5,995)
<b>Effects of exchange rates on cash and cash equivalents</b>	(3,928)	2,241
<b>Cash and cash equivalents, beginning of period</b>	299,852	142,739
<b>Cash and cash equivalents, end of period</b>	<u>\$ 269,063</u>	<u>\$ 138,985</u>

See the accompanying notes to the condensed consolidated financial statements.

## NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Unaudited)

## Note 1 — Business and Basis of Presentation

*Business.* Gartner, Inc. is a global information technology research and advisory company founded in 1979 with its headquarters in Stamford, Connecticut. Gartner delivers its products and services through three business segments: Research, Consulting, and Events. When used in these notes, the terms “Gartner,” “Company,” “we,” “us,” or “our” refer to Gartner, Inc. and its consolidated subsidiaries.

*Basis of presentation.* The accompanying interim condensed consolidated financial statements have been prepared in accordance with generally accepted accounting principles in the United States of America (“U.S. GAAP”), as defined in the Financial Accounting Standards Board (FASB) Accounting Standards Codification (“ASC”) Topic 270 for interim financial information and with the applicable instructions of the U.S. Securities & Exchange Commission (“SEC”) Rule 10-01 of Regulation S-X on Form 10-Q and should be read in conjunction with the consolidated financial statements and related notes of the Company filed in its Annual Report on Form 10-K for the year ended December 31, 2012.

The fiscal year of Gartner represents the twelve-month calendar period from January 1 through December 31. In the opinion of management, all normal recurring accruals and adjustments considered necessary for a fair presentation of financial position, results of operations and cash flows at the dates and for the periods presented herein have been included. The results of operations for the three months ended March 31, 2013 may not be indicative of the results of operations for the remainder of 2013.

*Principles of consolidation.* The accompanying interim condensed consolidated financial statements include the accounts of the Company and its wholly- and majority-owned subsidiaries. All significant intercompany transactions and balances have been eliminated.

*Use of estimates.* The preparation of the accompanying interim condensed consolidated financial statements requires management to make estimates and assumptions about future events. These estimates and the underlying assumptions affect the amounts of assets and liabilities reported, disclosures about contingent assets and liabilities, and reported amounts of revenues and expenses. Such estimates include the valuation of accounts receivable, goodwill, intangible assets, and other long-lived assets, as well as tax accruals and other liabilities. In addition, estimates are used in revenue recognition, income tax expense, performance-based compensation charges, depreciation and amortization, and the allowance for losses. Management believes its use of estimates in these interim condensed consolidated financial statements is reasonable.

Management continuously evaluates and revises its estimates using historical experience and other factors, including the general economic environment and actions it may take in the future. Management adjusts these estimates when facts and circumstances dictate. However, these estimates may involve significant uncertainties and judgments and cannot be determined with precision. In addition, these estimates are based on management’s best judgment at a point in time. As a result, differences between our estimates and actual results could be material and would be reflected in the Company’s consolidated financial statements in future periods.

*Adoption of new accounting rules.* The Company adopted new accounting rules in the three months ended March 31, 2013 related to accumulated other comprehensive income (see Note 2 — Comprehensive Income) and balance sheet offsetting of receivables and payables arising from derivative contracts (see Note 10 — Derivatives and Hedging). The adoption of these new rules resulted in additional disclosures only.

## Note 2 — Comprehensive Income

On January 1, 2013, the Company adopted FASB Accounting Standards Update (“ASU”) 2013-02, *Reporting of Amounts Reclassified Out of Accumulated Other Comprehensive Income*, an amendment to FASB ASC Topic 220, Comprehensive Income. ASU 2013-02 requires entities to prospectively disclose additional information about changes in accumulated other comprehensive income (“AOCI”) balances by component and items reclassified out of AOCI to income during the period. ASU 2013-02 does not change the existing requirement to present the components of comprehensive income in the financial statements and is intended to improve the transparency of reclassification amounts and their impact on the financial statements. The information required by ASU 2013-02 is presented below.

The changes in AOCI by component (net of tax) for the three months ended March 31, 2013 are presented in the following table (in thousands) (1):

	Interest Rate Swap (Cash Flow Hedge)	Defined Benefit Pension Plans	Foreign Currency Translation Adjustments	Total
Balance – December 31, 2012	\$ (6,010)	\$ (1,578)	\$ 13,556	\$ 5,968
Changes during the period:				
Other comprehensive (loss) income before reclassifications	(4)	17	(3,789)	(3,776)
Reclassifications from AOCI to income (2), (3)	565	6	—	571
Other comprehensive income (loss) for the period	561	23	(3,789)	(3,205)
Balance – March 31, 2013	<u>\$ (5,449)</u>	<u>\$ (1,555)</u>	<u>\$ 9,767</u>	<u>\$ 2,763</u>

(1) Amounts in parentheses represent debits.

(2) The hedge reclassification amount was recorded in Interest expense, net and is net of \$0.4 million of income tax benefit recorded in the Provision for income taxes. See Note 10 – Derivatives and Hedging for information regarding the hedge.

(3) The pension reclassification amount was recorded in SG&A and had an immaterial tax effect. See Note 12 – Employee Benefits for information regarding the Company’s defined benefit pension plans.

### Note 3 — Earnings per Share

The following table sets forth the calculations of basic and diluted earnings per share (in thousands, except per share data):

	Three Months Ended March 31,	
	2013	2012
Numerator:		
Net income used for calculating basic and diluted earnings per share	\$ 36,675	\$ 34,221
Denominator:		
Weighted average number of common shares used in the calculation of basic earnings per share	93,595	93,416
Common stock equivalents associated with stock-based compensation plans (1)	1,942	2,783
Shares used in the calculation of diluted earnings per share	95,537	96,199
Basic earnings per share	\$ 0.39	\$ 0.37
Diluted earnings per share	\$ 0.38	\$ 0.36

(1) For the three months ended March 31, 2013 and 2012, 0.2 million and 0.6 million of common stock equivalents, respectively, were not included in the computation of diluted earnings per share because the effect would have been anti-dilutive.

### Note 4 — Stock-Based Compensation

The Company grants stock-based compensation awards as an incentive for employees and directors to contribute to the Company’s long-term success. The Company currently awards stock-settled stock appreciation rights, service-based and performance-based restricted stock units, and common stock equivalents. At March 31, 2013, the Company had 6.0 million shares of its common stock, par value \$.0005 per share (the “Common Stock”) available for awards of stock-based compensation under its 2003 Long-Term Incentive Plan.

The Company accounts for stock-based compensation awards in accordance with FASB ASC Topics 505 and 718, as interpreted by SEC Staff Accounting Bulletins No. 107 (“SAB No. 107”) and No. 110 (“SAB No. 110”). Stock-based compensation expense is based on the fair value of the award on the date of grant, which is then recognized as expense over the related service period, net of estimated forfeitures. The service period is the period over which the related service is performed, which is generally the same as the vesting period. Currently the Company issues treasury shares upon the exercise, release or settlement of stock-based compensation awards.

Determining the appropriate fair value model and calculating the fair value of stock-based compensation awards requires the input of certain complex and subjective assumptions, including the expected life of the stock compensation awards and the Common Stock price volatility. In addition, determining the appropriate amount of associated periodic expense requires management to estimate the amount of employee forfeitures and the likelihood of the achievement of certain performance targets. The assumptions used in calculating the fair value of stock-based compensation awards and the associated periodic expense represent management’s best estimates, but these estimates involve inherent uncertainties and the application of judgment. As a result, if factors change and the



Company deems it necessary in the future to modify the assumptions it made or to use different assumptions, or if the quantity and nature of the Company's stock-based compensation awards changes, then the amount of expense may need to be adjusted and future stock-based compensation expense could be materially different from what has been recorded in the current period.

#### Stock-Based Compensation Expense

The Company recognized the following amounts of stock-based compensation expense by award type and expense category in the periods indicated (in millions):

<b>Award type:</b>	<b>Three Months Ended March 31,</b>	
	<b>2013</b>	<b>2012</b>
Stock appreciation rights	\$ 1.8	\$ 1.6
Common stock equivalents	0.1	0.1
Restricted stock units	10.4	9.2
Total	<u>\$ 12.3</u>	<u>\$ 10.9</u>

  

<b>Amount recorded in:</b>	<b>Three Months Ended March 31,</b>	
	<b>2013</b>	<b>2012</b>
Cost of services and product development	\$ 5.6	\$ 5.3
Selling, general and administrative	6.7	5.6
Total stock-based compensation expense (1)	<u>\$ 12.3</u>	<u>\$ 10.9</u>

(1) Includes charges of \$7.1 million and \$3.0 million for the three months ended March 31, 2013 and 2012, respectively, for awards to retirement-eligible employees since these awards vest on an accelerated basis.

As of March 31, 2013, the Company had \$61.5 million of total unrecognized stock-based compensation cost, which is expected to be expensed over the remaining weighted-average service period of approximately 2.7 years.

#### Stock-Based Compensation Awards

The following disclosures provide information regarding the Company's stock-based compensation awards, all of which are classified as equity awards in accordance with FASB ASC Topic 505:

##### *Stock Appreciation Rights*

Stock-settled stock appreciation rights (SARs) permit the holder to participate in the appreciation of the Common Stock. SARs are settled in shares of Common Stock by the employee once the applicable vesting criteria have been met. SARs vest ratably over a four-year service period and expire seven years from the grant date. The fair value of SARs awards is recognized as compensation expense on a straight-line basis over four years. SARs have only been awarded to the Company's executive officers.

When SARs are exercised, the number of shares of Common Stock issued is calculated as follows: (1) the total proceeds from the SARs exercise (calculated as the closing price of the Common Stock on the date of exercise less the exercise price of the SARs, multiplied by the number of SARs exercised) is divided by (2) the closing price of the Common Stock as reported on the New York Stock Exchange on the exercise date. The Company withholds a portion of the shares of Common Stock issued upon exercise to satisfy minimum statutory tax withholding requirements. SARs recipients do not have any stockholder rights until after actual shares of Common Stock are issued in respect of the award, which is subject to the prior satisfaction of the vesting and other criteria relating to such grants.

The following table summarizes changes in SARs outstanding during the three months ended March 31, 2013:

	<b>SARs (in millions)</b>	<b>Per Share Weighted- Average Exercise Price</b>	<b>Per Share Weighted- Average Grant Date Fair Value</b>	<b>Weighted Average Remaining Contractual Term</b>
Outstanding at December 31, 2012	2.0	\$ 24.59	\$ 9.04	4.10 years
Granted	0.4	49.37	14.88	6.87 years
Forfeited	—	—	—	n/a
Exercised	(0.1)	20.25	7.58	n/a
Outstanding at March 31, 2013 (1), (2)	<u>2.3</u>	<u>\$ 28.62</u>	<u>\$ 10.00</u>	<u>4.41 years</u>
Vested and exercisable at March 31, 2013 (2)	<u>1.3</u>	<u>\$ 20.42</u>	<u>\$ 7.73</u>	<u>3.42 years</u>

n/a=not applicable.

- (1) As of March 31, 2013, 1.0 million of the SARs outstanding were unvested. The Company expects that substantially all of these unvested awards will vest in future periods.
- (2) Total SARs outstanding had an intrinsic value of \$58.6 million. SARs vested and exercisable had an intrinsic value of \$44.5 million.

The fair value of the SARs was estimated on the date of grant using the Black-Scholes-Merton valuation model with the following weighted-average assumptions:

	<b>Three Months Ended March 31,</b>	
	<b>2013</b>	<b>2012</b>
Expected dividend yield (1)	0%	0%
Expected stock price volatility (2)	35%	40%
Risk-free interest rate (3)	0.8%	0.8%
Expected life in years (4)	4.5	4.6

- (1) The dividend yield assumption is based on the history and expectation of the Company's dividend payouts. Historically, Gartner has not paid cash dividends on its Common Stock.
- (2) The determination of expected stock price volatility was based on both historical Common Stock prices and implied volatility from publicly traded options in the Common Stock.
- (3) The risk-free interest rate is based on the yield of a U.S. Treasury security with a maturity similar to the expected life of the award.
- (4) The expected life represents the Company's weighted-average estimate of the period of time the SARs are expected to be outstanding (defined as the period between the service inception date and the expected exercise date), which is based on historical exercise data.

#### *Restricted Stock Units*

Restricted stock units (RSUs) give the awardee the right to receive shares of Common Stock when the vesting conditions are met and the restrictions lapse, and each RSU that vests entitles the awardee to one common share. RSU awardees do not have any of the rights of a Gartner stockholder, including voting rights and the right to receive dividends and distributions, until the shares are released. The fair value of RSUs is determined on the date of grant based on the closing price of the Common Stock as reported by the New York Stock Exchange on that date. Service-based RSUs vest ratably over four years and are expensed on a straight-line basis over four years. Performance-based RSUs are subject to both performance and service conditions, vest ratably over four years, and are expensed on an accelerated basis.

The following table summarizes the changes in RSUs outstanding during the three months ended March 31, 2013:

	<b>Restricted Stock Units (RSUs) (in millions)</b>	<b>Per Share Weighted Average Grant Date Fair Value</b>
Outstanding at December 31, 2012	2.5	\$ 27.95
Granted (1)	0.6	49.37
Vested and released	(1.2)	22.08
Forfeited	—	—
Outstanding at March 31, 2013 (2), (3)	<u>1.9</u>	<u>\$ 37.37</u>

- (1) The 0.6 million RSUs granted in 2013 consisted of 0.3 million performance-based RSUs awarded to executives and 0.3 million service-based RSUs awarded to non-executive employees and certain board members. The 0.3 million performance-based RSUs represents the target amount of the award for the year, which is tied to an increase in the Company's subscription-based Research contract value ("CV") for 2013. The final number of performance-based RSUs that will be granted to executives in 2013 ranges from 0% to 200% of the target amount, with the final number dependent on the actual increase in CV for the year as measured on December 31, 2013. If the specified minimum level of achievement is not met, the performance-based RSUs will be forfeited in their entirety, and any compensation expense previously recorded will be reversed.
- (2) The Company expects that substantially all of the outstanding awards will vest in future periods.
- (3) The weighted-average remaining contractual term of the outstanding RSUs is approximately 1.7 years.

## Common Stock Equivalents

Common stock equivalents (CSEs) are convertible into Common Stock and each CSE entitles the holder to one common share. Members of our Board of Directors receive directors' fees payable in CSEs unless they opt to receive up to 50% of the fees in cash. Generally, the CSEs have no defined term and are converted into common shares when service as a director terminates unless the director has elected an accelerated release. The fair value of the CSEs is determined on the date of grant based on the closing price of the Common Stock as reported by the New York Stock Exchange on that date. CSEs vest immediately and as a result are recorded as expense on the date of grant.

The following table summarizes the changes in CSEs outstanding during the three months ended March 31, 2013:

	<b>Common Stock Equivalents (CSEs)</b>	<b>Per Share Weighted Average Grant Date Fair Value</b>
Outstanding at December 31, 2012	100,545	\$ 16.89
Granted	2,387	54.48
Converted to common shares	(1,925)	54.48
Outstanding at March 31, 2013	<u>101,007</u>	<u>\$ 17.06</u>

na=not available

## Employee Stock Purchase Plan

The Company has an employee stock purchase plan (the "ESP Plan") under which eligible employees are permitted to purchase Common Stock through payroll deductions, which may not exceed 10% of an employee's compensation (or a maximum of \$23,750 in any calendar year), at a price equal to 95% of the closing price of the Common Stock as reported by the New York Stock Exchange at the end of each offering period.

At March 31, 2013, the Company had 1.2 million shares available for purchase under the ESP Plan. The ESP Plan is considered non-compensatory under FASB ASC Topic 718, and as a result the Company does not record stock-based compensation expense for employee share purchases. The Company received \$1.3 million and \$1.1 million in cash from purchases under the ESP Plan during the three months ended March 31, 2013 and 2012, respectively.

## Note 5 — Segment Information

The Company manages its business through three reportable segments: Research, Consulting and Events. Research consists primarily of subscription-based research products, access to research inquiry, peer networking services, and membership programs. Consulting consists primarily of consulting, measurement engagements, and strategic advisory services. Events consists of various symposia, conferences, and exhibitions.

The Company evaluates reportable segment performance and allocates resources based on gross contribution margin. Gross contribution, as presented in the table below, is defined as operating income excluding certain Cost of services and product development expenses, Selling, general and administrative expense, depreciation, amortization of intangibles, and acquisition and integration charges. Certain bonus and fringe benefit costs included in consolidated Cost of services and product development are not allocated to segment expense. The accounting policies used by the reportable segments are the same as those used by the Company. There are no intersegment revenues.

The Company does not identify or allocate assets, including capital expenditures, by reportable segment. Accordingly, assets are not reported by segment because the information is not available by segment and is not reviewed in the evaluation of segment performance or in making decisions in the allocation of resources.

The following tables present information about the Company's reportable segments (in thousands):

<b>Three Months Ended March 31, 2013:</b>	<b>Research</b>	<b>Consulting</b>	<b>Events</b>	<b>Consolidated</b>
Revenues	\$ 310,331	\$ 72,633	\$ 23,790	\$ 406,754
Gross contribution	215,214	22,538	7,108	244,860
Corporate and other expenses				(190,855)
Operating income				<u>\$ 54,005</u>

<b>Three Months Ended March 31, 2012:</b>	<u>Research</u>	<u>Consulting</u>	<u>Events</u>	<u>Consolidated</u>
Revenues	\$ 274,620	\$ 74,563	\$ 19,988	\$ 369,171
Gross contribution	188,602	27,600	7,895	224,097
Corporate and other expenses				(170,541)
Operating income				<u>\$ 53,556</u>

Note 6 — Goodwill and Intangible Assets

*Goodwill*

Goodwill represents the excess of the purchase price of acquired businesses over the estimated fair value of the tangible and identifiable intangible net assets acquired. The evaluation of goodwill is performed in accordance with FASB ASC Topic 350, which requires an annual assessment of potential goodwill impairment at the reporting unit level. A reporting unit can be an operating segment or a business if discrete financial information is prepared and reviewed by management. The Company has three reporting units: Research, Consulting, and Events.

The following table presents changes to the carrying amount of goodwill by reporting unit during the three months ended March 31, 2013 (in thousands):

	<u>Research</u>	<u>Consulting</u>	<u>Events</u>	<u>Total</u>
Balance, December 31, 2012 (1)	\$ 377,225	\$ 100,349	\$ 41,932	\$ 519,506
Foreign currency translation adjustments and other (2)	(2,106)	(837)	(38)	(2,981)
Balance, March 31, 2013	<u>\$ 375,119</u>	<u>\$ 99,512</u>	<u>\$ 41,894</u>	<u>\$ 516,525</u>

- (1) The Company does not have any accumulated goodwill impairment losses.
- (2) Includes the impact of foreign currency translation and certain immaterial goodwill adjustments.

*Amortizable Intangible Assets*

The following tables present reconciliations of the carrying amounts of amortizable intangible assets as of the dates indicated (in thousands):

<b>March 31, 2013</b>	<u>Trade Name</u>	<u>Customer Relationships</u>	<u>Content</u>	<u>Software</u>	<u>Total</u>
Gross cost, December 31, 2012	\$ 6,019	\$ 10,562	\$ 3,447	\$ 2,124	\$ 22,152
Foreign currency translation adjustments	—	13	(14)	(18)	(19)
Gross cost	6,019	10,575	3,433	2,106	22,133
Accumulated amortization (1)	(3,852)	(6,559)	(713)	(532)	(11,656)
Balance, March 31, 2013	<u>\$ 2,167</u>	<u>\$ 4,016</u>	<u>\$ 2,720</u>	<u>\$ 1,574</u>	<u>\$ 10,477</u>

<b>December 31, 2012</b>	<u>Trade Name</u>	<u>Customer Relationships</u>	<u>Content</u>	<u>Software</u>	<u>Total</u>
Gross cost	\$ 6,019	\$ 10,562	\$ 3,447	\$ 2,124	\$ 22,152
Accumulated amortization (1)	(3,531)	(5,896)	(497)	(407)	(10,331)
Balance, December 31, 2012	<u>\$ 2,488</u>	<u>\$ 4,666</u>	<u>\$ 2,950</u>	<u>\$ 1,717</u>	<u>\$ 11,821</u>

- (1) Intangible assets are being amortized against earnings over the following periods: Trade name—2 to 5 years; Customer relationships—4 years; Content—4 years; Software—3 years.

Aggregate amortization expense related to intangible assets was \$1.3 million and \$0.7 million for the three months ended March 31, 2013 and 2012, respectively.

The estimated future amortization expense by year from amortizable intangibles is as follows (in thousands):

2013 (remaining nine months)	\$	4,155
2014		3,610
2015		2,000
2016		712
	<u>\$</u>	<u>10,477</u>

## 2013 Credit Agreement

On March 7, 2013, the Company entered into a new credit arrangement (the “2013 Credit Agreement”) with a syndication of banks led by JPMorgan Chase to take advantage of favorable financing conditions and obtain additional liquidity through a larger revolving credit facility. The 2013 Credit Agreement provides for a five-year, \$150.0 million term loan and a \$600.0 million revolving credit facility. In addition, the 2013 Credit Agreement contains an expansion feature by which the term loan and revolving credit facility may be increased, at the Company’s option and under certain conditions, by up to an additional \$250.0 million in the aggregate.

The term loan will be repaid in 16 consecutive quarterly installments commencing June 30, 2013, plus a final payment due on March 7, 2018, and may be prepaid at any time without penalty or premium (other than applicable breakage costs) at the Company’s option. The revolving credit facility may be used for loans, and up to \$40.0 million may be used for letters of credit. The revolving loans may be borrowed, repaid and re-borrowed until March 7, 2018, at which time all amounts borrowed must be repaid.

On March 7, 2013, the Company drew down \$150.0 million from the term loan and \$50.0 million from the revolving credit facility which was used to repay amounts outstanding under the Company’s prior credit arrangement, which was terminated in connection with the refinancing. Future amounts to be drawn down under the revolving credit facility will be used for general working capital purposes. The Company recorded a charge of \$0.3 million for capitalized debt issuance costs related to the termination of the previous credit arrangement, which was recorded in Interest expense, net in the Condensed Consolidated Statements of Operations. The Company incurred \$3.6 million in debt issuance costs related to the new credit facility, which was capitalized and will be amortized to interest expense over the term of the 2013 Credit Agreement.

Amounts borrowed under the 2013 Credit Agreement bear interest at a rate equal to, at Gartner’s option, either (i) the greatest of: the Administrative Agent’s prime rate; the average rate on overnight federal funds plus 1/2 of 1%; and the Eurodollar rate (adjusted for statutory reserves) plus 1%, in each case plus a margin equal to between 0.25% and 0.75% depending on Gartner’s leverage ratio as of the end of the four consecutive fiscal quarters most recently ended, or (ii) the Eurodollar rate (adjusted for statutory reserves) plus a margin equal to between 1.25% and 1.75%, depending on Gartner’s leverage ratio as of the end of the four consecutive fiscal quarters most recently ended.

The 2013 Credit Agreement contains certain customary restrictive loan covenants, including, among others, financial covenants requiring a maximum leverage ratio, a minimum interest expense coverage ratio, and covenants limiting Gartner’s ability to incur indebtedness, grant liens, make acquisitions, be acquired, dispose of assets, pay dividends, repurchase stock, make capital expenditures, make investments and enter into certain transactions with affiliates. The 2013 Credit Agreement contains customary events of default that include, among others, non-payment of principal, interest or fees, inaccuracy of representations and warranties, violation of covenants, cross defaults to certain other indebtedness, bankruptcy and insolvency events, ERISA defaults, material judgments, and events constituting a change of control. The occurrence of an event of default will increase the applicable rate of interest by 2.0%, allows the lenders to terminate their obligations to lend under the 2013 Credit Agreement and could result in the acceleration of Gartner’s obligations under the credit facility and an obligation of any or all of the guarantors to pay the full amount of Gartner’s obligations under the credit facility. As of March 31, 2013, the Company was in full compliance with the loan covenants.

The following table provides information regarding the Company’s total outstanding borrowings:

<b>Description:</b>	<b>Amount Outstanding March 31, 2013 (In thousands)</b>	<b>Contractual Annualized Interest Rate March 31, 2013</b>	<b>Amount Outstanding December 31, 2012 (In thousands)</b>
Term loans (1)	\$ 150,000	1.66%	\$ 150,000
Revolver loans (1), (2)	50,000	1.66%	50,000
Other (3)	5,000	3.00%	5,000
Total	\$ 205,000		\$ 205,000

(1) Both the term and revolver loan rates consisted of a floating Eurodollar base rate of 0.28% plus a margin of 1.38%. However, the Company has an interest rate swap contract which converts the floating Eurodollar base rate to a 2.26% fixed base rate on the first \$200.0 million of Company borrowings (see below). As a result, the Company’s effective annual interest rate on the \$200.0 million of outstanding debt under the 2013 Credit Facility as of March 31, 2013, including the margin, was 3.64%.

(2) The Company had \$546.7 million of available borrowing capacity on the revolver (not including the expansion feature) as of March 31, 2013.

- (3) The Company borrowed \$5.0 million in December 2012 as part of an economic development program through the State of Connecticut in connection with the Company's renovation of its Stamford headquarters facility. The loan has a 10 year maturity and bears a 3.0% fixed rate of interest. Principal payments are deferred for the first five years and the loan may be repaid at any point by the Company without penalty. The loan has a principal forgiveness provision in which up to \$2.5 million of the loan may be forgiven if the Company meets certain employment targets in the State of Connecticut during the first five years of the loan.

#### *Interest Rate Swap*

The Company has a \$200.0 million notional fixed-for-floating interest rate swap contract which it designates as a hedge of the forecasted interest payments on the Company's variable rate borrowings. Under the swap terms, the Company pays a base fixed rate of 2.26% and in return receives a floating Eurodollar base rate on \$200.0 million of notional borrowings. The Company entered into this swap contract in December 2010 and it matures in September 2015.

The Company accounts for the interest rate swap as a cash flow hedge in accordance with FASB ASC Topic 815. Since the swap is hedging forecasted interest payments, changes in the fair value of the swap are recorded in OCI as long as the swap continues to be a highly effective hedge of the designated interest rate risk. Any ineffective portion of change in the fair value of the hedge is recorded in earnings. The swap continued to be a highly effective hedge of the forecasted interest payments as of March 31, 2013. The interest rate swap had a negative fair value to the Company of \$9.1 million and \$10.0 million at March 31, 2013 and December 31, 2012, respectively, which is deferred and classified in OCI, net of tax effect.

#### *Letters of Credit*

The Company had \$10.2 million of letters of credit and related guarantees outstanding at March 31, 2013. The Company enters into these instruments in the ordinary course of business to facilitate transactions with customers and others.

#### Note 8 — Equity

##### *Share Repurchase Program*

The Company has a \$500.0 million share repurchase program, of which \$186.6 million remained available for share repurchases as of March 31, 2013. Repurchases may be made from time-to-time through open market purchases, private transactions, tender offers or other transactions. The amount and timing of repurchases will be subject to the availability of stock, prevailing market conditions, the market price of the stock, the Company's financial performance and other conditions. Repurchases may also be made from time-to-time in connection with the settlement of the Company's shared-based compensation awards. Repurchases may be funded from operating cash flow or borrowings.

The Company's share repurchase activity is included in the following table:

	<b>Three Months Ended</b>	
	<b>March 31,</b>	
	<b>2013</b>	<b>2012</b>
Number of shares repurchased (1)	976,943	1,979,429
Cost of repurchased shares (in thousands)	\$ 48,527	\$ 77,158

- (1) The average purchase price for the shares was \$49.67 and \$38.98 for the three months ended March 31, 2013 and 2012, respectively.

#### Note 9 — Income Taxes

The provision for income taxes was \$15.1 million for the three months ended March 31, 2013 compared to \$16.2 million in the three months ended March 31, 2012. The effective tax rate was 29.2% for the three months ended March 31, 2013 and 32.1% for the same period in 2012. The decrease in the effective tax rate was primarily due to the impact of tax law changes. The American Taxpayer Relief Act of 2012 (the "Tax Act") was enacted in January of 2013 and contains beneficial tax provisions for the Company. Since the Tax Act was enacted in 2013, approximately \$1.5 million of tax benefits relating to its application was recorded by the Company in the first quarter of 2013.

As of March 31, 2013 and December 31, 2012, the Company had gross unrecognized tax benefits of \$18.1 million and \$17.6 million, respectively. The unrecognized tax benefits relate primarily to the utilization of certain tax attributes. It is reasonably possible that the gross unrecognized tax benefits will decrease by \$3.5 million within the next 12 months, due to anticipated closure of audits and the expiration of certain statutes of limitation. The Company classifies uncertain tax positions not expected to be settled within one year as long term liabilities. As of March 31, 2013 and December 31, 2012, the Company had Other liabilities of \$14.6 million and \$13.1 million, respectively, related to long term uncertain tax positions.

In 2011 the Internal Revenue Service (“IRS”) commenced an audit of the Company’s federal income tax returns for the 2008 and 2009 tax years. The IRS has proposed adjustments for both 2008 and 2009 and the Company expects to settle the audit in 2013. Although the audit has not been fully resolved, the Company believes that the ultimate disposition will not have a material adverse effect on its consolidated financial position, cash flows, or results of operations.

#### Note 10 — Derivatives and Hedging

The Company enters into a limited number of derivative contracts to offset the potentially negative economic effects of interest rate and foreign exchange movements. The Company accounts for its outstanding derivative contracts in accordance with FASB ASC Topic 815, which requires all derivatives, including derivatives designated as accounting hedges, to be recorded on the balance sheet at fair value. The following tables provide information regarding the Company’s outstanding derivatives contracts (in thousands, except for number of outstanding contracts) as of the dates indicated:

March 31, 2013

Derivative Contract Type	Number of Outstanding Contracts	Notional Amounts	Fair Value Asset (Liability), Net (3)	Balance Sheet Line Item	Unrealized Loss Recorded in OCI
Interest rate swap (1)	1	\$ 200,000	\$ (9,080)	Other liabilities	\$ (5,449)
Foreign currency forwards (2)	43	48,300	(20)	Accrued Liabilities	—
Total	44	\$ 248,300	\$ (9,100)		\$ (5,449)

December 31, 2012

Derivative Contract Type	Number of Outstanding Contracts	Notional Amounts	Fair Value Asset (Liability), Net (3)	Balance Sheet Line Item	Unrealized Loss Recorded in OCI
Interest rate swap (1)	1	\$ 200,000	\$ (10,000)	Other liabilities	\$ (6,010)
Foreign currency forwards (2)	68	76,100	4	Current assets	—
Total	69	\$ 276,100	\$ (9,996)		\$ (6,010)

(1) This swap has been designated, and is accounted for, as a cash flow hedge of the forecasted interest payments on borrowings (see Note 7 — Debt). As a result, changes in fair value of this swap are deferred and are recorded in OCI, net of tax effect.

(2) The Company has foreign exchange transaction risk since it typically enters into transactions in the normal course of business that are denominated in foreign currencies that differ from the local functional currency. The Company enters into short-term foreign currency forward exchange contracts to offset the economic effects of these foreign currency transaction risks. These contracts are accounted for at fair value with realized and unrealized gains and losses recognized in Other expense, net since the Company does not designate these contracts as hedges for accounting purposes. The majority of the outstanding contracts at March 31, 2013 matured by the end of April 2013.

(3) See Note 11 — Fair Value Disclosures for the determination of the fair value of these instruments.

The Company’s derivative counterparties are all large investment grade financial institutions. The Company did not have any collateral arrangements with its derivative counterparties, and none of the derivative contracts contained credit-risk guarantees.

The following table provides information regarding derivative gains and losses that have been recognized in the Condensed Consolidated Statements of Operations for the periods indicated (in thousands):

Amount recorded in:	Three Months Ended March 31,	
	2013	2012
Interest expense, net (1)	\$ 940	\$ 847
Other expense (income), net (2)	73	(246)
Total expense, net	\$ 1,013	\$ 601

(1) Consists of interest expense from an interest rate swap contract.

(2) Consists of realized and unrealized gains and losses on foreign currency forward contracts.

The Company's financial instruments include cash equivalents, fees receivable from customers, accounts payable, and accruals which are normally short-term in nature. The Company believes the carrying amounts of these financial instruments reasonably approximate their fair value due to their short-term nature. The Company's financial instruments also include its outstanding borrowings. The Company believes the carrying amount of the outstanding borrowings reasonably approximates their fair value since the rate of interest on the borrowings reflect current market rates of interest for similar instruments with comparable maturities.

FASB ASC Topic 820 provides a framework for the measurement of fair value and a valuation hierarchy based upon the transparency of inputs used in the valuation of assets and liabilities. Classification within the hierarchy is based upon the lowest level of input that is significant to the resulting fair value measurement. The valuation hierarchy contains three levels. Level 1 measurements consist of quoted prices in active markets for identical assets or liabilities. Level 2 measurements include significant other observable inputs such as quoted prices for similar assets or liabilities in active markets; identical assets or liabilities in inactive markets; observable inputs such as interest rates and yield curves; and other market-corroborated inputs. Level 3 measurements include significant unobservable inputs, such as internally-created valuation models.

The Company has a limited number of assets and liabilities recorded in its Consolidated Balance Sheets that are remeasured to fair value on a recurring basis, and the Company does not currently utilize Level 3 valuation inputs to remeasure any of its assets or liabilities. In addition, the Company typically does not transfer assets or liabilities between different levels of the fair value hierarchy.

The Company's assets and liabilities remeasured to fair value are presented in the following table for the periods indicated (in thousands):

<b>Description:</b>	<b>Fair Value March 31, 2013</b>	<b>Fair Value December 31, 2012</b>
<b>Assets:</b>		
Deferred compensation plan assets (1)	\$ 29,345	\$ 27,795
Foreign currency forward contracts (2)	80	204
	<u>\$ 29,425</u>	<u>\$ 27,999</u>
<b>Liabilities:</b>		
Deferred compensation plan liabilities (1)	\$ 32,960	\$ 31,260
Foreign currency forward contracts (2)	100	200
Interest rate swap contract (3)	9,080	10,000
	<u>\$ 42,140</u>	<u>\$ 41,460</u>

- (1) The Company has a deferred compensation plan for the benefit of certain highly compensated employees. The assets consist of investments in money market and mutual funds, and company-owned life insurance contracts, all of which are valued based on Level 1 or Level 2 valuation inputs. The related deferred compensation plan liabilities are recorded at fair value, or the estimated amount needed to settle the liability, which the Company also considers to be based on a Level 2 input.
- (2) The Company enters into foreign currency forward exchange contracts to hedge the effects of adverse fluctuations in foreign currency exchange rates. Valuation of the foreign currency forward contracts is based on observable foreign currency exchange rates in active markets, which the Company considers a Level 2 input.
- (3) The Company has an interest rate swap contract which hedges the forecasted interest payments on its borrowings (see Note 7 — Debt). To determine the fair value of this over-the-counter financial instrument, the Company relies on a mark-to-market valuation prepared by a third-party broker. The valuation is based on observable interest rates from recently executed market transactions or broker quotes corroborated by other observable market data. Accordingly, the fair value of the swap is determined under a Level 2 input. The Company independently corroborates the reasonableness of the swap valuation prepared by the third-party broker through the use of an electronic quotation service.

*Disclosures about Offsetting of Assets and Liabilities*

On January 1, 2013, the Company adopted FASB ASU No. 2013-01, *Clarifying the Scope of Disclosures about Offsetting Assets and Liabilities*, which updates FASB ASU No. 2011-11, *Disclosures about Offsetting Assets and Liabilities*. These rules require certain disclosures of assets and liabilities resulting from derivative transactions, repurchase agreements, and securities lending arrangements. Among the required disclosures are the gross amounts of assets and liabilities resulting from these transactions, amounts potentially subject to offset under master netting arrangements, and resulting amounts recorded in the balance sheets.

The Company enters into a limited number of derivatives transactions but does not enter into repurchase agreements or securities lending transactions. In addition, the Company does not enter into master netting arrangements and receivables or payables that result from derivatives transactions are recorded gross in the Company's Consolidated Balance Sheets. Information regarding the



Company's derivatives contracts and related amounts recorded in the Consolidated Balance Sheets as of March 31, 2013 and December 31, 2012 are included in the fair value table above.

#### Note 12 — Employee Benefits

##### *Defined Benefit Pension Plans*

The Company has defined-benefit pension plans in several of its international locations. Benefits paid under these plans are based on years of service and level of employee compensation. The Company's defined benefit pension plans are accounted for in accordance with FASB ASC Topics 715 and 960. Net periodic pension expense was \$0.8 and \$0.6 million for the three months ended March 31, 2013 and 2012, respectively.

#### Note 13 — Commitments and Contingencies

##### *Contingencies*

The Company is involved in legal proceedings and litigation arising in the ordinary course of business. We believe that the potential liability, if any, in excess of amounts already accrued from all proceedings, claims and litigation will not have a material effect on our financial position, cash flows, or results of operations when resolved in a future period.

The Company has various agreements that may obligate us to indemnify the other party with respect to certain matters. Generally, these indemnification clauses are included in contracts arising in the normal course of business under which we customarily agree to hold the other party harmless against losses arising from a breach of representations related to such matters as title to assets sold and licensed or certain intellectual property rights. It is not possible to predict the maximum potential amount of future payments under these indemnification agreements due to the conditional nature of the Company's obligations and the unique facts of each particular agreement. Historically, payments made by us under these agreements have not been material. As of March 31, 2013, the Company did not have any indemnification agreements that could require material payments.

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

The purpose of the following Management’s Discussion and Analysis (“MD&A”) is to help facilitate the understanding of significant factors influencing the quarterly operating results, financial condition and cash flows of Gartner, Inc. Additionally, the MD&A also conveys our expectations of the potential impact of known trends, events or uncertainties that may impact future results. You should read this discussion in conjunction with our condensed consolidated financial statements and related notes included in this report and in our Annual Report on Form 10-K for the year ended December 31, 2012. Historical results and percentage relationships are not necessarily indicative of operating results for future periods. References to “Gartner,” “the Company,” “we,” “our,” and “us” in this MD&A are to Gartner, Inc. and its subsidiaries.

### Forward-Looking Statements

In addition to historical information, this Quarterly Report contains certain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Forward-looking statements are any statements other than statements of historical fact, including statements regarding our expectations, beliefs, hopes, intentions or strategies regarding the future. In some cases, forward-looking statements can be identified by the use of words such as “may,” “will,” “expect,” “should,” “could,” “believe,” “plan,” “anticipate,” “estimate,” “predict,” “potential,” “continue,” or other words of similar meaning.

Forward-looking statements are subject to risks and uncertainties that could cause actual results to differ materially from those discussed in, or implied by, the forward-looking statements. Factors that might cause such a difference include, but are not limited to, those discussed in “Factors That May Affect Future Performance” and elsewhere in this Quarterly Report and in our Annual Report on Form 10-K for the year ended December 31, 2012. Readers should not place undue reliance on these forward-looking statements, which reflect management’s opinion only as of the date on which they were made. Except as required by law, we disclaim any obligation to review or update these forward-looking statements to reflect events or circumstances as they occur. Readers should review carefully any risk factors described in other reports we filed with the SEC.

### BUSINESS OVERVIEW

Gartner, Inc. (NYSE: IT) is the world’s leading information technology research and advisory company. We deliver the technology-related insight necessary for our clients to make the right decisions, every day. From CIOs and senior IT leaders in corporations and government agencies, to business leaders in high-tech and telecom enterprises and professional services firms, to supply chain professionals and technology investors, we are the valuable partner to clients in over 13,200 distinct organizations. We work with clients to research, analyze and interpret the business of IT within the context of their individual roles. Founded in 1979, Gartner is headquartered in Stamford, Connecticut, U.S.A., and as of March 31, 2013, we had 5,634 associates, including 1,452 research analysts and consultants, and clients in 85 countries.

The foundation for all Gartner products and services is our independent research on IT and supply chain issues. The findings from this research are delivered through our three business segments — Research, Consulting and Events:

- **Research** provides objective insight on critical and timely technology and supply chain initiatives for CIOs, other IT professionals, supply chain leaders, technology companies and the investment community through reports, briefings, proprietary tools, access to our analysts, peer networking services and membership programs that enable our clients to make better decisions about their IT and supply chain investments.
- **Consulting** provides customized solutions to unique client needs through on-site, day-to-day support, as well as proprietary tools for measuring and improving IT performance with a focus on cost, performance, efficiency, and quality.
- **Events** provide IT, supply chain and business professionals the opportunity to attend various symposia, conferences and exhibitions to learn, contribute and network with their peers. From our flagship event Symposium/ITxpo, to summits focused on specific technologies and industries, to experimental workshop-style seminars, our events distill the latest Gartner research into applicable insight and advice.

For more information regarding Gartner and our products and services, visit [www.gartner.com](http://www.gartner.com).

## BUSINESS MEASUREMENTS

We believe the following business measurements are important performance indicators for our business segments:

<u>BUSINESS SEGMENT</u>	<u>BUSINESS MEASUREMENTS</u>
Research	<p><b>Contract value</b> represents the value attributable to all of our subscription-related research products that recognize revenue on a ratable basis. Contract value is calculated as the annualized value of all subscription research contracts in effect at a specific point in time, without regard to the duration of the contract.</p> <p><b>Client retention rate</b> represents a measure of client satisfaction and renewed business relationships at a specific point in time. Client retention is calculated on a percentage basis by dividing our current clients, who were also clients a year ago, by all clients from a year ago.</p> <p><b>Wallet retention rate</b> represents a measure of the amount of contract value we have retained with clients over a twelve-month period. Wallet retention is calculated on a percentage basis by dividing the contract value of clients, who were clients one year earlier, by the total contract value from a year earlier, excluding the impact of foreign currency exchange. When wallet retention exceeds client retention, it is an indication of retention of higher-spending clients, or increased spending by retained clients, or both.</p>
Consulting	<p><b>Consulting backlog</b> represents future revenue to be derived from in-process consulting, measurement and strategic advisory services engagements.</p> <p><b>Utilization rate</b> represents a measure of productivity of our consultants. Utilization rates are calculated for billable headcount on a percentage basis by dividing total hours billed by total hours available to bill.</p> <p><b>Billing Rate</b> represents earned billable revenue divided by total billable hours.</p> <p><b>Average annualized revenue per billable headcount</b> represents a measure of the revenue generating ability of an average billable consultant and is calculated periodically by multiplying the average billing rate per hour times the utilization percentage times the billable hours available for one year.</p>
Events	<p><b>Number of events</b> represents the total number of hosted events completed during the period.</p> <p><b>Number of attendees</b> represents the total number of people who attend events.</p>

## EXECUTIVE SUMMARY OF OPERATIONS AND FINANCIAL POSITION

We have executed a consistent growth strategy since 2005 to drive double-digit revenue and earnings growth. The fundamentals of our strategy are to create extraordinary research insight, deliver innovative and highly differentiated product offerings, build a strong sales capability, provide world class client service with a focus on client engagement and retention, and continuously improve our operational effectiveness.

We had total revenues of \$406.8 million in the first quarter of 2013, an increase of 10% compared to the first quarter of 2012 and 11% excluding the unfavorable foreign exchange impact. Revenues increased by 13% in our Research segment and 19% in Events, while Consulting revenues declined by 3%. For a more complete discussion of our results by segment, see Segment Results below. We had net income of \$36.7 million in the first quarter of 2013, an increase of 7% compared to first quarter 2012. Diluted earnings per share was \$0.38 per share in first quarter of 2013 compared to \$0.36 in first quarter 2012.

We refinanced our credit facility during the first quarter of 2013 to take advantage of favorable market conditions, provide for additional liquidity, and extend the maturity of our debt. Our total borrowing capacity under the new facility is \$1.0 billion, including a \$250.0 million expansion feature. We had \$269.1 million of cash and cash equivalents at March 31, 2013 and we believe that our liquidity is adequate to fund our current plans. We continue to enhance shareholder value through our share repurchase plan, and during the first quarter we repurchased almost 1.0 million shares for a total cost of \$48.5 million.

## CRITICAL ACCOUNTING POLICIES AND ESTIMATES

The preparation of financial statements requires the application of appropriate accounting policies and the use of estimates. Our significant accounting policies are described in Note 1 in the Notes to Consolidated Financial Statements of Gartner, Inc. contained in our Annual Report on Form 10-K for the year ended December 31, 2012. Management considers the policies discussed below to be

critical to an understanding of our financial statements because their application requires complex and subjective management judgments and estimates. Specific risks for these critical accounting policies are also described below.

The preparation of our financial statements requires us to make estimates and assumptions about future events. We develop our estimates using both current and historical experience, as well as other factors, including the general economic environment and actions we may take in the future. We adjust such estimates when facts and circumstances dictate. However, our estimates may involve significant uncertainties and judgments and cannot be determined with precision. In addition, these estimates are based on our best judgment at a point in time and as such these estimates may ultimately differ materially from actual results. Also, on-going changes in our estimates could be material and would be reflected in the Company's consolidated financial statements in future periods.

Our critical accounting policies are as follows:

**Revenue recognition** — Revenue is recognized in accordance with the requirements of U.S. GAAP as well as SEC Staff Accounting Bulletins No. 101, Revenue Recognition in Financial Statements ("SAB 101"), and SEC Staff Accounting Bulletin No. 104, Revenue Recognition ("SAB 104"). Revenue is only recognized once all required criteria for revenue recognition have been met. Revenue by significant source is accounted for as follows:

- Research revenues are derived from subscription contracts for research products and are deferred and recognized ratably over the applicable contract term. Fees from research reprints are recognized when the reprint is delivered.
- Consulting revenues are principally generated from fixed fee and time and material engagements. Revenues from fixed fee contracts are recognized on a proportional performance basis. Revenues from time and materials engagements are recognized as work is delivered and/or services are provided. Revenues related to contract optimization contracts are contingent in nature and are only recognized upon satisfaction of all conditions related to their payment.
- Events revenues are deferred and recognized upon the completion of the related symposium, conference or exhibition.

The majority of research contracts are billable upon signing, absent special terms granted on a limited basis from time to time. All research contracts are non-cancelable and non-refundable, except for government contracts that may have cancellation or fiscal funding clauses. It is our policy to record the entire amount of the contract that is billable as a fee receivable at the time the contract is signed with a corresponding amount as deferred revenue, since the contract represents a legally enforceable claim.

**Uncollectible fees receivable** — We maintain an allowance for losses which is composed of a bad debt allowance and a sales reserve. Provisions are charged against earnings, either as a reduction in revenues or an increase to expense. The measurement of likely and probable losses and the allowance for losses is based on historical loss experience, aging of outstanding receivables, an assessment of current economic conditions and the financial health of specific clients. This evaluation is inherently judgmental and requires estimates. These valuation reserves are periodically re-evaluated and adjusted as more information about the ultimate collectability of fees receivable becomes available. Circumstances that could cause our valuation reserves to increase include changes in our clients' liquidity and credit quality, other factors negatively impacting our clients' ability to pay their obligations as they come due, and the effectiveness of our collection efforts.

The following table provides our total fees receivable, along with the related allowance for losses, as of the date indicated (in thousands):

	March 31, 2013	December 31, 2012
Total fees receivable	\$ 447,525	\$ 470,368
Allowance for losses	(6,120)	(6,400)
Fees receivable, net	<u>\$ 441,405</u>	<u>\$ 463,968</u>

**Goodwill and other intangible assets** — Goodwill represents the excess of the purchase price of acquired businesses over the estimated fair value of the tangible and identifiable intangible net assets acquired. Goodwill is not amortized against earnings, but is periodically evaluated for impairment in accordance with FASB ASC Topic 350, which requires goodwill to be assessed for impairment at least annually and whenever events or changes in circumstances indicate that the carrying value may not be recoverable. In addition, an impairment evaluation of our amortizable intangible assets may also be performed on a periodic basis should events or circumstances indicate potential impairment. If we determine that the fair value of a reporting unit or an intangible asset is less than its related carrying amount, we must recognize an impairment charge against earnings. Among the factors we consider important that could trigger an impairment review are the following:

- Significant under-performance relative to historical or projected future operating results;
- Significant changes in the manner of our use of acquired assets or the strategy for our overall business;
- Significant negative industry or general economic trends;

- Significant decline in our stock price for a sustained period; and
- Our market capitalization relative to net book value.

The determination of the estimated fair value of our reporting units, whether based on a quantitative or qualitative assessment, contains judgments and assumptions regarding future trends and events, with both the precision and reliability of the resulting estimates subject to uncertainty. As a result, if the Company deems it necessary in the future to modify its judgments and assumptions, or if actual results are materially different from our expectations, then the estimated reporting unit values could change, potentially resulting in goodwill impairment charges in future periods.

**Accounting for income taxes** — As we prepare our consolidated financial statements, we estimate our income taxes in each of the jurisdictions where we operate. This process involves estimating our current tax expense together with assessing temporary differences resulting from differing treatment of items for tax and accounting purposes. These differences result in deferred tax assets and liabilities, which are included within our consolidated balance sheets. We record a valuation allowance to reduce our deferred tax assets when future realization is in question. We consider the availability of loss carryforwards, existing deferred tax liabilities, future taxable income and ongoing prudent and feasible tax planning strategies in assessing the need for the valuation allowance. In the event we determine that we are able to realize our deferred tax assets in the future in excess of our net recorded amount, an adjustment is made to reduce the valuation allowance and increase income in the period such determination is made. Likewise, if we determine that we will not be able to realize all or part of our net deferred tax asset in the future, an adjustment to the valuation allowance is charged against income in the period such determination is made.

**Accounting for stock-based compensation** — The Company accounts for stock-based compensation in accordance with FASB ASC Topics 505 and 718, as interpreted by SEC Staff Accounting Bulletins No. 107 (“SAB No. 107”) and No. 110 (“SAB No. 110”). The Company recognizes stock-based compensation expense, which is based on the fair value of the award on the date of grant, over the related service period, net of estimated forfeitures (see Note 4 — Stock-Based Compensation in the Notes to the Condensed Consolidated Financial Statements).

Determining the appropriate fair value model and calculating the fair value of stock-based compensation awards requires the input of certain complex and subjective assumptions, including the expected life of the stock-based compensation awards and the Company’s Common Stock price volatility. In addition, determining the appropriate amount of associated periodic expense requires management to estimate the rate of employee forfeitures and the likelihood of the achievement of certain performance targets. The assumptions used in calculating the fair value of stock-based compensation awards and the associated periodic expense represent management’s best estimates, but these estimates involve inherent uncertainties and the application of judgment. As a result, if factors change and the Company deems it necessary in the future to modify the assumptions it made or to use different assumptions, or if the quantity and nature of the Company’s stock-based compensation awards changes, then the amount of periodic stock-based compensation expense may need to be adjusted which could be materially different from what has been recorded in the current period.

**Restructuring and other accruals** — We may record accruals for severance costs, costs associated with excess facilities that we have leased, contract terminations, asset impairments, the integration of acquired businesses, and other costs as a result of on-going actions we undertake to streamline our organization, reposition certain businesses and reduce ongoing costs, or acquire other companies. Estimates of costs to be incurred to complete these actions, such as future lease payments, sublease income, the fair value of assets, and severance and related benefits, are based on assumptions at the

time the actions are initiated. These accruals may need to be adjusted to the extent actual costs differ from such estimates. In addition, these actions may be revised due to changes in business conditions that we did not foresee at the time such plans were approved. We also record accruals during the year for our various employee cash incentive programs. Amounts accrued at the end of each reporting period are based on our estimates and may require adjustment as the ultimate amount paid for these incentives are sometimes not known with certainty until the end of our fiscal year.

## RESULTS OF OPERATIONS

### Overall Results

The following tables summarize the changes in selected income and expense lines in our interim Condensed Consolidated Statements of Operations for the periods indicated (dollars in thousands):

	Three Months Ended March 31, 2013	Three Months Ended March 31, 2012	Income Increase (Decrease) \$	Increase (Decrease) %
Total revenues	\$ 406,754	\$ 369,171	\$ 37,583	10%
Costs and expenses:				
Cost of services and product development	163,737	146,463	(17,274)	(12)
Selling, general and administrative	180,478	162,518	(17,960)	(11)
Depreciation	7,100	5,895	(1,205)	(20)
Amortization of intangibles	1,334	739	(595)	(81)
Acquisition and integration charges	100	—	(100)	(100)
Operating income	54,005	53,556	449	1
Interest expense, net	(2,436)	(2,195)	(241)	(11)
Other income (expense), net	211	(978)	1,189	>100
Provision for income taxes	(15,105)	(16,162)	1,057	7
Net income	\$ 36,675	\$ 34,221	\$ 2,454	7%

TOTAL REVENUES for the three months ended March 31, 2013 increased \$37.6 million, or 10%, compared to the same quarter in 2012, primarily driven by our Research segment, which had a double-digit revenue increase. Excluding the unfavorable impact of foreign currency translation, total quarterly revenues increased 11%. Please refer to the section of this MD&A below entitled “Segment Results” for a discussion of revenues and results by segment.

COST OF SERVICES AND PRODUCT DEVELOPMENT increased \$17.3 million, or 12%, in the first quarter of 2013 compared to the first quarter of 2012. The increase was primarily due to \$13.0 million in higher payroll and related benefits costs due to increased headcount and merit salary increases. The increase was partially offset by the favorable impact of foreign currency translation. Cost of services and product development as a percentage of revenues was 40% for both quarters.

SELLING, GENERAL AND ADMINISTRATIVE (“SG&A”) increased \$18.0 million, or 11%, quarter-over-quarter. The increase was primarily due to higher payroll and related benefits costs, which was partially offset by favorable foreign currency impact. The higher payroll costs resulted from additional headcount, higher sales commissions, and merit salary increases. The increased headcount includes our investment in additional quota-bearing sales associates, which increased 13% quarter-over-quarter, to 1,288 at March 31, 2013.

DEPRECIATION expense increased 20% quarter-over-quarter due to an additional renovated building on our Stamford headquarters campus placed into service.

AMORTIZATION OF INTANGIBLES increased to \$1.3 million in the three months ended March 31, 2013 compared to \$0.7 million in the same period in 2012 due to the addition of intangibles from the mid-year 2012 acquisition of Ideas International Limited.

ACQUISITION AND INTEGRATION CHARGES was \$0.1 million in the first quarter of 2013 and zero in the first quarter of 2012. These charges related to the acquisition of Ideas International Limited and included legal, consulting, severance, and other costs.

OPERATING INCOME increased by 1% quarter-over-quarter. Operating income as a percentage of revenues declined by approximately 2 points quarter-over-quarter, primarily due to our investment in additional headcount, to include the 13% growth in quote-bearing sales associates, and to a lesser extent, lower segment contributions in Consulting and Events.

INTEREST EXPENSE, NET increased 11% quarter-over-quarter, primarily due to \$0.3 million in write-offs of capitalized debt issuance costs related to our debt refinancing. The additional debt issuance charge was slightly offset by lower interest expense on our debt due to a lower average amount of debt outstanding.

OTHER (EXPENSE) INCOME, NET consisted of net foreign currency exchange gains and losses.

PROVISION FOR INCOME TAXES was \$15.1 million for the three months ended March 31, 2013 compared to \$16.2 million in the three months ended March 31, 2012. The effective tax rate was 29.2% for the three months ended March 31, 2013 and 32.1% for the same period in 2012. The decrease in the effective tax rate was primarily due to the impact of tax law changes. The American Taxpayer Relief Act of 2012 (the "Tax Act") was enacted in January of 2013 and contains beneficial tax provisions for the Company. Since the Tax Act was passed in 2013, approximately \$1.5 million of tax benefits relating to its application was recorded by the Company in the first quarter of 2013.

NET INCOME increased 7% quarter-over-quarter while diluted earnings per share increased by 6%, due to the higher net income and a slightly lower number of weighted-average shares outstanding.

## SEGMENT RESULTS

We evaluate reportable segment performance and allocate resources based on gross contribution margin. Gross contribution is defined as operating income excluding certain Cost of services and product development charges, SG&A expenses, Depreciation, Acquisition and integration charges, and Amortization of intangibles. Gross contribution margin is defined as gross contribution as a percentage of revenues.

The following sections present the results of our three business segments:

### Research

	As Of And For The Three Months Ended March 31, 2013	As Of And For The Three Months Ended March 31, 2012	Increase (Decrease)	Percentage Increase (Decrease)
<b>Financial Measurements:</b>				
Revenues (1)	\$ 310,331	\$ 274,620	\$ 35,711	13%
Gross contribution (1)	\$ 215,214	\$ 188,602	\$ 26,612	14%
Gross contribution margin	69%	69%	—	—
<b>Business Measurements:</b>				
Contract value (1)	\$ 1,269,200	\$ 1,110,928	\$ 158,272	14%
Client retention	82%	82%	—	—
Wallet retention	98%	99%	(1%)	—

(1) Dollars in thousands.

Research segment revenues increased 13% quarter-over-quarter. The impact of foreign currency translation was not significant. The segment gross contribution margin remained at 69%. Research contract value at March 31, 2013 increased 14% compared to March 31, 2012 with only a minimal impact from foreign currency translation. Contract value increased across all of the Company's industry types, client sizes, and sales regions. Client retention was 82% for both quarterly periods while wallet retention declined by 1 point.

### Consulting

	As Of And For The Three Months Ended March 31, 2013	As Of And For The Three Months Ended March 31, 2012	Increase (Decrease)	Percentage Increase (Decrease)
<b>Financial Measurements:</b>				
Revenues (1)	\$ 72,633	\$ 74,563	\$ (1,930)	(3%)
Gross contribution (1)	\$ 22,538	\$ 27,600	\$ (5,062)	(18%)
Gross contribution margin	31%	37%	(6 points)	—
<b>Business Measurements:</b>				
Backlog (1)	\$ 97,500	\$ 95,533	\$ 1,967	2%
Billable headcount	528	476	52	11%
Consultant utilization	65%	70%	(5 points)	—
Average annualized revenue per billable headcount (1)	\$ 404	\$ 437	\$ (33)	(8%)

(1) Dollars in thousands.

Consulting revenues decreased \$1.9 million, or 3%, quarter-over-quarter. The decline was primarily due to lower revenues in our Strategic advisory (SAS) business, and to a lesser extent, lower revenues in our contract optimization business. Core consulting revenues were flat, but consultant utilization declined. Excluding the unfavorable impact of foreign currency translation, revenues decreased 2% quarter-over-quarter. The gross contribution margin declined by 6 points, primarily driven by the decline in utilization, and to a lesser extent, lower SAS and contract optimization revenue. Backlog at March 31, 2013 increased 2% compared to March 31, 2012.

Events

	As Of And For The Three Months Ended March 31, 2013	As Of And For The Three Months Ended March 31, 2012	Increase (Decrease)	Percentage Increase (Decrease)
<b>Financial Measurements:</b>				
Revenues (1)	\$ 23,790	\$ 19,988	\$ 3,802	19%
Gross contribution (1)	\$ 7,108	\$ 7,895	\$ (787)	(10%)
Gross contribution margin	30%	39%	(9 points)	—
<b>Business Measurements:</b>				
Number of events	12	13	(1)	(8%)
Number of attendees	5,788	5,707	81	1%

(1) Dollars in thousands.

Events revenues were \$23.8 million in the first quarter of 2013, an increase of 19% compared to first quarter 2012. Excluding the foreign exchange impact, total Events revenues increased 20%. We held 12 events in the first quarter of 2013, which consisted of 10 ongoing events and 2 events that were moved into the quarter that were held in a different quarter in 2012. Two events that were held in the first quarter of 2012 will be held later in 2013.

Approximately \$2.2 million of the revenue increase was due to the two events that were moved into the quarter. We also had \$1.6 million in additional revenues from the 10 on-going events held in the quarter. Both attendees and exhibitors delivered double-digit revenue increases over the first quarter of 2012. The number of attendees was flat quarter-over-quarter while the number of exhibitors increased by double-digits. The gross contribution margin decreased 9 points due to a combination of factors, including higher operating expenses from several events that were upgraded or moved to larger facilities.

## LIQUIDITY AND CAPITAL RESOURCES

The Company entered into a new five-year credit agreement in March 2013 that provides for a \$150.0 million term loan and a \$600.0 million revolving credit facility (the "2013 Credit Agreement"). Under the revolving credit facility, amounts may be borrowed, repaid, and re-borrowed through the maturity date of the agreement in March 2018. The credit arrangement contains an expansion feature by which the term loan and revolving credit facility may be increased, at the Company's option and under certain conditions, up to an additional \$250.0 million in the aggregate.

We finance our operations primarily through cash generated from our on-going operating activities. At March 31, 2013, we had \$269.1 million of cash and cash equivalents and \$546.7 million of available borrowing capacity under our revolving credit facility. Our cash and cash equivalents are held in numerous locations throughout the world, with 62% held outside the United States at March 31, 2013. We believe that we have adequate liquidity and that the cash we expect to earn from our on-going operating activities, our existing cash balances, and the borrowing capacity we have under our revolving credit facility will be sufficient for our currently anticipated needs.

The following table summarizes the changes in the Company's cash and cash equivalents (in thousands):

	Three Months Ended March 31, 2013	Three Months Ended March 31, 2012	Cash Increase (Decrease)
Cash provided by operating activities	\$ 19,693	\$ 18,679	\$ 1,014
Cash used in investing activities	(9,648)	(7,118)	(2,530)
Cash used by financing activities	(36,906)	(17,556)	(19,350)
Net decrease in cash and cash equivalents	(26,861)	(5,995)	(20,866)
Effects of exchange rates	(3,928)	2,241	(6,169)
Beginning cash and cash equivalents	299,852	142,739	157,113
Ending cash and cash equivalents	\$ 269,063	\$ 138,985	\$ 130,078



### *Operating*

Operating cash flow increased by \$1.0 million when comparing the three months ended March 31, 2013 to the same period in 2012. The increase was primarily due to \$2.5 million in higher net income and to a lesser extent, lower cash payments for interest on our debt and higher landlord reimbursements from the renovation of our Stamford headquarters facility. These increases were partially offset by higher cash payments for bonus and commissions.

### *Investing*

We used an additional \$2.5 million of cash in our investment activities in the 2013 period which was primarily due to additional capital expenditures from the renovation of our Stamford headquarters facility. As of April 2013, the renovation was substantially completed.

### *Financing*

We used \$36.9 million of cash in our financing activities in the 2013 period compared to \$17.6 million in 2012, an increase in cash used of \$19.4 million. We had lower net cash proceeds from borrowings in the 2013 period, and we also paid \$3.6 million of debt issuance costs related to our debt refinancing, and cash proceeds from employee stock compensation exercises also declined, primarily because there are fewer remaining stock options outstanding. Cash used for share repurchases in the first quarter of 2013 declined by \$28.6 million compared to first quarter 2012.

## **OBLIGATIONS AND COMMITMENTS**

### *2013 Credit Agreement*

The 2013 Credit Agreement provides for a five-year, \$150.0 million term loan and a \$600.0 million revolving credit facility, and an expansion feature by which the term loan and revolving credit facility may be increased, at the Company's option and under certain conditions, by up to an additional \$250.0 million in the aggregate. The Company had \$200.0 million outstanding under the 2013 Credit Agreement as of March 31, 2013, which included \$150.0 million outstanding under the term loan and \$50.0 million outstanding under the revolver.

The term loan will be repaid in 16 consecutive quarterly installments which will commence on June 30, 2013, plus a final payment due on March 7, 2018, and may be prepaid at any time without penalty or premium at the Company's option. The revolving credit facility may be used for loans, and up to \$40.0 million may be used for letters of credit. The revolving loans may be borrowed, repaid and re-borrowed until March 7, 2018, at which time all amounts borrowed must be repaid. See Note 7 — Debt herein in the Notes to the Condensed Consolidated Financial Statements for additional information regarding the 2013 Credit Agreement.

### *Off-Balance Sheet Arrangements*

Through March 31, 2013, we have not entered into any off-balance sheet arrangements or transactions with unconsolidated entities or other persons.

## **BUSINESS AND TRENDS**

Our quarterly and annual revenues, operating income, and cash flows fluctuate as a result of many factors, including: the timing of our Symposium/ITxpo series that normally occurs during the fourth calendar quarter, as well as our other events; the amount of new business generated; the mix of domestic and international business; domestic and international economic conditions; changes in market demand for our products and services; changes in foreign currency rates; the timing of the development, introduction and marketing of new products and services; competition in the industry; the payment of performance compensation; and other factors. The potential fluctuations in our operating income could cause period-to-period comparisons of operating results not to be meaningful and could provide an unreliable indication of future operating results.

## **FACTORS THAT MAY AFFECT FUTURE PERFORMANCE**

We operate in a very competitive and rapidly changing environment that involves numerous risks and uncertainties, some of which are beyond our control. A description of the risk factors associated with our business is included under "Risk Factors" contained in Item 1A. of our 2012 Annual Report on Form 10-K which is incorporated herein by reference.

## **RECENTLY ISSUED ACCOUNTING STANDARDS**

Accounting rules issued by the various U.S. standard setting and governmental authorities that have not yet become effective and may impact our Consolidated Financial Statements in future periods are described below, together with our assessment of the potential impact they may have on our Consolidated Financial Statements and related disclosures in future periods:

In March 2013, the FASB issued ASU No. 2013-05, *Parent's Accounting for the Cumulative Translation Adjustment upon Derecognition of Certain Subsidiaries or Groups of Assets within a Foreign Entity or of an Investment in a Foreign Entity*. ASU No. 2013-05 provides updated guidance to resolve diversity in practice concerning the release of the cumulative foreign currency translation adjustment into net income when a parent sells a part or all of its investment in a foreign entity or no longer holds a controlling financial interest in a subsidiary or group of assets within a foreign entity. When a company ceases to have a controlling financial interest in a subsidiary within a foreign entity, the company should recognize any related cumulative translation adjustment into net income only if the sale or transfer results in the complete or substantially complete liquidation of the foreign entity in which the subsidiary had resided. Upon the partial sale of an equity method investment that is a foreign entity, the company should release into earnings a pro rata portion of the cumulative translation adjustment. Upon the partial sale of an equity method investment that is not a foreign entity, the company should release into earnings the cumulative translation adjustment if the partial sale represents a complete or substantially complete liquidation of the foreign entity that holds the equity method investment.

ASU No. 2013-05 is effective for the Company's quarter ending March 31, 2014. The adoption of this guidance is not expected to have a material effect on the Company's results of operations, financial position or liquidity.

### **ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

#### **INTEREST RATE RISK**

We have exposure to changes in interest rates arising from borrowings under our 2013 Credit Agreement. At March 31, 2013, we had \$150.0 million outstanding under the term loan and \$50.0 million outstanding under the revolver. Borrowings under this facility are floating rate, which may be either prime-based or Eurodollar-based. The rate paid for these borrowings includes a base floating rate plus a margin between 0.25% and 0.75% on prime borrowings and between 1.25% and 1.75% on Eurodollar-based borrowings.

We have an interest rate swap contract which effectively converts the floating base rate on the first \$200.0 million of our borrowings to a 2.26% fixed rate. The Company only hedges the base interest rate risk on the first \$200.0 million of its outstanding borrowings. Accordingly, we are exposed to interest rate risk on borrowings in excess of \$200.0 million. A 25 basis point increase or decrease in interest rates would change pre-tax annual interest expense on the additional revolver borrowing capacity under the 2013 Credit Agreement (not including the expansion feature) by approximately \$1.4 million.

#### **FOREIGN CURRENCY RISK**

We have customers in numerous countries, and 46% of our revenues for the fiscal year ended December 31, 2012 were derived from sales outside of the U.S. As a result, we conduct business in numerous currencies other than the U.S. dollar. Among the major foreign currencies in which we conduct business are the Euro, the British Pound, the Japanese Yen, the Australian dollar, and the Canadian dollar. Our foreign currency exposure results in both translation risk and transaction risk:

##### *Translation Risk*

We are exposed to foreign currency translation risk since the functional currencies of our foreign operations are generally denominated in the local currency. Translation risk arises since the assets and liabilities that we report for our foreign subsidiaries are translated into U.S. dollars at the exchange rates in effect at the balance sheet dates, and these exchange rates fluctuate over time. These foreign currency translation adjustments are deferred and are recorded as a component of stockholders' equity and do not impact our operating results.

A measure of the potential impact of foreign currency translation on our Condensed Consolidated Balance Sheets can be determined through a sensitivity analysis of our cash and cash equivalents. At March 31, 2013, we had \$269.1 million of cash and cash equivalents, a substantial portion of which was denominated in foreign currencies. If the foreign exchange rates of the major currencies in which we operate changed in comparison to the U.S. dollar by 10%, the amount of cash and cash equivalents we would have reported on March 31, 2013, could have increased or decreased by approximately \$12.0 million.

Because our foreign subsidiaries generally operate in a local functional currency that differs from the U.S. dollar, revenues and expenses in these foreign currencies translate into higher or lower revenues and expenses in U.S. dollars as the U.S. dollar continuously weakens or strengthens against these other currencies. Therefore, changes in exchange rates may affect our consolidated revenues and expenses (as expressed in U.S. dollars) from foreign operations. Historically, this impact on our consolidated earnings has not been material since foreign currency movements in the major currencies in which we operate tend to impact our revenues and expenses fairly equally.

##### *Transaction Risk*

We have foreign exchange transaction risk since we typically enter into transactions in the normal course of business that are denominated in foreign currencies that differ from the local functional currency in which the foreign subsidiary operates. We typically enter into foreign currency forward exchange contracts to offset the effects of foreign currency transaction risk. These contracts are normally short term in duration and unrealized and realized gains and losses are recognized in current period earnings. At March 31,

2013, we had 43 outstanding foreign currency forward contracts with a total notional amount of \$48.3 million and an immaterial net unrealized loss. Most of these outstanding contracts matured by the end of April 2013.

#### **CREDIT RISK**

Financial instruments that potentially subject the Company to concentration of credit risk consist primarily of short-term, highly liquid investments classified as cash equivalents, accounts receivable, and interest rate swap contracts. The majority of the Company's cash and cash equivalents and its interest rate swap contract are with large investment grade commercial banks that are participants in the Company's 2013 Credit Agreement. Accounts receivable balances deemed to be collectible from customers have limited concentration of credit risk due to our diverse customer base and geographic dispersion.

#### **ITEM 4. CONTROLS AND PROCEDURES**

We have established disclosure controls and procedures that are designed to ensure that the information we are required to disclose in our reports filed under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), is recorded, processed, summarized and reported in a timely manner. Specifically, these controls and procedures ensure that the information is accumulated and communicated to our executive management team, including our chief executive officer and our chief financial officer, to allow timely decisions regarding required disclosure.

Management conducted an evaluation, as of March 31, 2013, of the effectiveness of the design and operation of our disclosure controls and procedures, under the supervision and with the participation of our chief executive officer and chief financial officer. Based upon that evaluation, our chief executive officer and chief financial officer have concluded that the Company's disclosure controls and procedures are effective in alerting them in a timely manner to material Company information required to be disclosed by us in reports filed under the Exchange Act.

In addition, there have been no changes in the Company's internal control over financial reporting during the period covered by this report that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

## PART II OTHER INFORMATION

### ITEM 1. LEGAL PROCEEDINGS

We are involved in legal and administrative proceedings and litigation arising in the ordinary course of business. We believe that the potential liability, if any, in excess of amounts already accrued from all proceedings, claims and litigation will not have a material effect on our financial position or results of operations when resolved in a future period.

### ITEM 1A. RISK FACTORS

A description of the risk factors associated with our business is included under "Risk Factors" contained in Item 1A. of our 2012 Annual Report on Form 10-K and is incorporated herein by reference.

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

There were no unregistered sales of equity securities during the period covered by this report.

#### Issuer Purchases of Equity Securities

The Company has a \$500.0 million share repurchase program to be utilized to acquire shares of Common Stock. Repurchases may be made from time-to-time through open market purchases, private transactions, tender offers or other transactions. The amount and timing of repurchases will be subject to the availability of stock, prevailing market conditions, the trading price of the stock, the Company's financial performance and other conditions. Repurchases may also be made from time-to-time in connection with the settlement of the Company's shared-based compensation awards. Repurchases will be funded from cash flow from operations and borrowings under the Company's Credit Agreement. The following table provides detail related to repurchases of our Common Stock for treasury in the three months ended March 31, 2013:

<u>Period</u>	<u>Total Number of Shares Purchased</u>	<u>Average Price Paid Per Share</u>	<u>Approximate Dollar Value of Shares that may yet be Purchased Under our Share Repurchase Program (in thousands)</u>
2013 (1)			
January	1,841	\$ 50.07	
February	774,917	49.32	
March	200,185	51.02	
Total	<u>976,943</u>	<u>\$ 49.67</u>	\$ 187,000

(1) The Company paid a total of \$48.5 million in cash for share repurchases in the three months ended March 31, 2013.

**ITEM 6. EXHIBITS**

<b>EXHIBIT NUMBER</b>	<b>DESCRIPTION OF DOCUMENT</b>
10.1	Credit Agreement dated as of March 7, 2013 among Gartner, Inc.; Wells Fargo Bank, National Association and RBS Citizens, N.A., as Co-Syndication Agents; HSBC Bank USA, National Association, Keybank National Association, TD Bank, N.A., U.S. Bank National Association and Union Bank, N.A., as Co-Documentation Agents; JP Morgan Chase Bank, N.A., as Administrative Agent; and the several lenders thereto.
31.1	Certification of chief executive officer under Rule 13a — 14(a)/15d — 14(a).
31.2	Certification of chief financial officer under Rule 13a — 14(a)/15d — 14(a).
32	Certification under 18 U.S.C. 1350.
101	Interactive data files pursuant to Rule 405 of Regulation S-T: (i) the Condensed Consolidated Balance Sheets at March 31, 2013 and December 31, 2012, (ii) the Condensed Consolidated Statements of Operations for the three months ended March 31, 2013 and 2012, (iii) the Condensed Consolidated Statements of Comprehensive Income for the three months ended March 31, 2013 and 2012, (iv) the Condensed Consolidated Statements of Cash Flows for the three months ended March 31, 2013 and 2012, and (v) the Notes to Condensed Consolidated Financial Statements.

Items 3, 4, and 5 of Part II are not applicable and have been omitted.

**SIGNATURE**

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

Gartner, Inc.

Date: May 2, 2013

/s/ Christopher J. Lafond

Christopher J. Lafond

Executive Vice President and Chief Financial Officer

(Principal Financial and Accounting Officer)

\$750,000,000

CREDIT AGREEMENT

among

GARTNER, INC.,  
as Borrower,

The Several Lenders from Time to Time Parties Hereto,

WELLS FARGO BANK, NATIONAL ASSOCIATION and RBS CITIZENS, N.A.,  
as Co-Syndication Agents,

HSBC BANK USA, NATIONAL ASSOCIATION, KEYBANK NATIONAL ASSOCIATION,  
TD BANK, N.A., U.S. BANK NATIONAL ASSOCIATION, and UNION BANK, N.A.  
as Co-Documentation Agents,

and

JPMORGAN CHASE BANK, N.A.,  
as Administrative Agent

Dated as of March 7, 2013

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J.P. MORGAN SECURITIES LLC, WELLS FARGO SECURITIES, LLC, and RBS CITIZENS, N.A.,

as Joint Lead Arrangers and Joint Bookrunners

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CREDIT AGREEMENT (this "Agreement"), dated as of March 7, 2013 among GARTNER, INC., a Delaware corporation (the "Borrower"), the several banks and other financial institutions or entities from time to time parties to this Agreement (the "Lenders"), WELLS FARGO BANK, NATIONAL ASSOCIATION and RBS CITIZENS, N.A., as co-syndication agents (in such capacity, the "Co-Syndication Agents"), HSBC BANK USA, NATIONAL ASSOCIATION, KEY BANK NATIONAL ASSOCIATION, TD BANK, N.A., U.S. BANK NATIONAL ASSOCIATION and UNION BANK, N.A., as co-documentation agents (in such capacity, the "Co-Documentation Agents"), and JPMORGAN CHASE BANK, N.A., as administrative agent (the "Administrative Agent").

The parties hereto hereby agree as follows:

## SECTION 1. DEFINITIONS

1.1 Defined Terms. As used in this Agreement, the terms listed in this Section 1.1 shall have the respective meanings set forth in this Section 1.1.

"ABR": for any day, a rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to the greatest of (a) the Prime Rate in effect on such day, (b) the Federal Funds Effective Rate in effect on such day plus ½ of 1% and (c) the Eurodollar Rate that would be calculated as of such day (or, if such day is not a Business Day, as of the next preceding Business Day) in respect of a proposed Eurodollar Loan with a one-month Interest Period plus 1.0%. Any change in the ABR due to a change in the Prime Rate, the Federal Funds Effective Rate or such Eurodollar Rate shall be effective as of the opening of business on the day of such change in the Prime Rate, the Federal Funds Effective Rate or such Eurodollar Rate, respectively.

"ABR Loans": Loans the rate of interest applicable to which is based upon the ABR.

"Adjustment Date": as defined in the definition of Applicable Margin.

"Administrative Agent": JPMorgan Chase Bank, together with its affiliates, as the arranger of the Commitments and as the administrative agent for the Lenders under this Agreement and the other Loan Documents, together with any of its successors.

"Affiliate": as to any Person, any other Person that, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" of a Person means the power, directly or indirectly, either to (a) vote 20% or more of the securities having ordinary voting power for the election of directors (or persons performing similar functions) of such Person or (b) direct or cause the direction of the management and policies of such Person, whether by contract or otherwise.

"Agents": the collective reference to the Co-Syndication Agents, the Co-Documentation Agents and the Administrative Agent.

"Aggregate Exposure": with respect to any Lender at any time, an amount equal to (a) until the Closing Date, the aggregate amount of such Lender's Commitments at such time and (b) thereafter, the sum of (i) the aggregate then unpaid principal amount of such Lender's Term Loans and (ii) the amount of such Lender's Revolving Commitment then in effect or, if the Revolving Commitments have been terminated, the amount of such Lender's Revolving Extensions of Credit then outstanding.

"Aggregate Exposure Percentage": with respect to any Lender at any time, the ratio (expressed as a percentage) of such Lender's Aggregate Exposure at such time to the Aggregate Exposure

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of all Lenders at such time; provided, that in the case of Section 2.21 when a Defaulting Lender shall exist, “Aggregate Exposure Percentage” shall mean the percentage of the Aggregate Exposure of all Lenders (disregarding any Defaulting Lender’s Aggregate Exposure) represented by such Lender’s Aggregate Exposure. If the Commitments have terminated or expired, the Aggregate Exposure Percentages shall be determined based upon the Commitments most recently in effect, giving effect to any assignments and to any Lender’s status as a Defaulting Lender at the time of determination.

“Agreement”: as defined in the preamble hereto.

“Applicable Margin”: for each Type of Loan or the Commitment Fee Rate, the rate per annum set forth under the relevant column heading below:

Level	Consolidated Leverage Ratio	Applicable Margin for Eurodollar Loans	Applicable Margin for ABR Loans	Commitment Fee Rate
I	> 2.50 to 1.00	1.75%	0.75%	0.30%
II	> 1.50 to 1.00 ≤ 2.50 to 1.00	1.50%	0.50%	0.25%
III	> 0.50 to 1.00 ≤ 1.50 to 1.00	1.375%	0.375%	0.225%
IV	≤ 0.50 to 1.00	1.25%	0.25%	0.20%

The Applicable Margin and Commitment Fee Rate on the Closing Date and until the first Adjustment Date (as defined below) following the Closing Date shall be the rate per annum set forth in Level III above. Changes in the Applicable Margin and the Commitment Fee Rate resulting from changes in the Consolidated Leverage Ratio shall become effective on the date (the “Adjustment Date”) that is three Business Days after the date on which financial statements are delivered to the Lenders pursuant to Section 6.1 and shall remain in effect until the next change to be effected pursuant to this paragraph. If any financial statements referred to above are not delivered within the time periods specified in Section 6.1, then, until the date that is three Business Days after the date on which such financial statements are delivered, the highest Applicable Margin and Commitment Fee Rate shall apply. Each determination of the Consolidated Leverage Ratio pursuant hereto shall be made in a manner consistent with the determination thereof pursuant to Section 7.1(a).

“Application”: an application, in such form as the Issuing Lender may specify from time to time, requesting the Issuing Lender to open a Letter of Credit.

“Approved Fund”: as defined in Section 10.6(b).

“Asset Sale”: any Disposition of property or series of related Dispositions of property (excluding any such Disposition permitted by clause (a), (b), (c), (d), (e) or (g) of Section 7.5) that yields gross proceeds to any Group Member (valued at the initial principal amount thereof in the case of non-cash proceeds consisting of notes or other debt securities and valued at fair market value in the case of other non-cash proceeds) in excess of \$50,000,000.

“Assignee”: as defined in Section 10.6(b).

“Assignment and Assumption”: an Assignment and Assumption, substantially in the form of Exhibit D.

“Augmenting Revolving Lender”: as defined in Section 2.4(b).

“Augmenting Term Lender”: as defined in Section 2.1(b).

“Available Revolving Commitment”: as to any Revolving Lender at any time, an amount equal to the excess, if any, of (a) such Lender’s Revolving Commitment then in effect over (b) such Lender’s Revolving Extensions of Credit then outstanding.

“Bankruptcy Event”: with respect to any Person, such Person becomes the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it, or in the good faith determination of the Administrative Agent, has taken any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment, provided that a Bankruptcy Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person by a Governmental Authority or instrumentality thereof, provided, further, that such ownership interest does not result in or provide such Person with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Person (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person.

“Benefitted Lender”: as defined in Section 10.7(a).

“Board”: the Board of Governors of the Federal Reserve System of the United States (or any successor).

“Borrower”: as defined in the preamble hereto.

“Borrowing Date”: any Business Day specified by the Borrower as a date on which the Borrower requests the relevant Lenders to make Loans hereunder.

“Business Day”: a day other than a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to close, provided, that with respect to notices and determinations in connection with, and payments of principal and interest on, Eurodollar Loans, such day is also a day for trading by and between banks in Dollar deposits in the interbank eurodollar market.

“Capital Lease Obligations”: as to any Person, the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP and, for the purposes of this Agreement, the amount of such obligations at any time shall be the capitalized amount thereof at such time determined in accordance with GAAP.

“Capital Stock”: any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation) and any and all warrants, rights or options to purchase any of the foregoing.

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“Cash Equivalents”: (a) marketable direct obligations issued by, or unconditionally guaranteed by, the United States Government or issued by any agency thereof and backed by the full faith and credit of the United States, in each case maturing within one year from the date of acquisition; (b) certificates of deposit, time deposits, eurodollar time deposits or overnight bank deposits having maturities of six months or less from the date of acquisition issued by any Lender (or any Affiliate or Subsidiary thereof) or by any commercial bank organized under the laws of the United States or any state thereof having combined capital and surplus of not less than \$500,000,000; (c) commercial paper of an issuer rated at least A-1 by Standard & Poor’s Ratings Services (“S&P”) or P-1 by Moody’s Investors Service, Inc. (“Moody’s”), or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings of commercial paper issuers generally (or any Affiliate or Subsidiary thereof), and maturing within six months from the date of acquisition; (d) repurchase obligations of any Lender or of any commercial bank satisfying the requirements of clause (b) of this definition, having a term of not more than 30 days, with respect to securities issued or fully guaranteed or insured by the United States government; (e) securities with maturities of one year 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, the securities of which state, commonwealth, territory, political subdivision, taxing authority or foreign government (as the case may be) are rated at least A by S&P or A by Moody’s; (f) securities with maturities of six months or less from the date of acquisition backed by standby letters of credit issued by any Lender (or any Affiliate or Subsidiary thereof) or any commercial bank satisfying the requirements of clause (b) of this definition; (g) money market mutual or similar funds that invest primarily in assets satisfying the requirements of clauses (a) through (f) of this definition; or (h) money market funds that (i) comply with the criteria set forth in SEC Rule 2a-7 under the Investment Company Act of 1940, as amended, (ii) are rated A by S&P and A1 by Moody’s and (iii) have portfolio assets of at least \$5,000,000,000.

“Closing Date”: the date on which the conditions precedent set forth in Section 5.1 shall have been satisfied.

“Co-Documentation Agent”: as defined in the preamble hereto.

“Co-Syndication Agent”: as defined in the preamble hereto.

“Code”: the Internal Revenue Code of 1986, as amended from time to time.

“Commitment”: as to any Lender, the sum of the Term Commitment and the Revolving Commitment of such Lender.

“Commitment Fee Rate”: at any date, the rate set forth under the heading “Commitment Fee Rate” in the definition of Applicable Margin.

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

“Commonly Controlled Entity”: an entity, whether or not incorporated, that is under common control with the Borrower within the meaning of Section 4001 of ERISA or is part of a group that includes the Borrower and that is treated as a single employer under Section 414 of the Code.

“Compliance Certificate”: a certificate duly executed by a Responsible Officer substantially in the form of Exhibit B.

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“Conduit Lender”: any special purpose corporation organized and administered by any Lender for the purpose of making Loans otherwise required to be made by such Lender and designated by such Lender in a written instrument; provided, that the designation by any Lender of a Conduit Lender shall not relieve the designating Lender of any of its obligations to fund a Loan under this Agreement if, for any reason, its Conduit Lender fails to fund any such Loan, and the designating Lender (and not the Conduit Lender) shall have the sole right and responsibility to deliver all consents and waivers required or requested under this Agreement with respect to its Conduit Lender, and provided, further, that no Conduit Lender shall (a) be entitled to receive any greater amount pursuant to Section 2.16, 2.17, 2.18 or 10.5 than the designating Lender would have been entitled to receive in respect of the extensions of credit made by such Conduit Lender or (b) be deemed to have any Commitment.

“Confidential Information Memorandum”: the Confidential Information Memorandum dated February 2013 and furnished to certain Lenders.

“Consolidated EBITDA”: for any period, Consolidated Net Income for such period plus, without duplication and to the extent reflected as a charge in the statement of such Consolidated Net Income for such period, the sum of (a) income tax expense, (b) interest expense, amortization or writeoff of debt discount and debt issuance costs and commissions, discounts and other fees and charges associated with Indebtedness (including the Loans), (c) depreciation, accretion and amortization expense, (d) amortization of intangibles (including, but not limited to, goodwill) and organization costs, (e) any extraordinary, unusual or non-recurring expenses or losses not to exceed 12.50% of Consolidated EBITDA for any fiscal year (calculated on a Pro Forma Basis) and any extraordinary non-cash or non-recurring non-cash expenses or losses (each including, in any event, (i) compensation charges or other expenses or charges arising from the grant of or issuance of stock, stock options, other equity-based awards, stock appreciation rights or restricted stock units to the directors, officers and employees of the Borrower and its Subsidiaries, (ii) loss on investments excluding marketable securities, (iii) writeoffs of fixed assets not included in depreciation, and (iv) writeoffs or impairment of any goodwill or intangible assets), (f) costs and expenses incurred in connection with Permitted Acquisitions (as defined in Section 7.4), Material Dispositions, and debt issuances or equity financings, including restructuring and integration expenses (to the extent not consummated, not to exceed \$25,000,000), (g) non-cash charges related to the application of purchase accounting for Permitted Acquisitions, (h) non-cash losses relating to hedging activities, (i) charges taken related to stock repurchases, and (j) any other non-cash charges and minus, (a) to the extent included in the statement of such Consolidated Net Income for such period, the sum of (i) interest income, (ii) any extraordinary non-cash or non-recurring non-cash income or gains (including, whether or not otherwise includable as a separate item in the statement of such Consolidated Net Income for such period) in the ordinary course of business, (iii) income tax credits (to the extent not netted from income tax expense), and (iv) any other non-cash income (other than accruals of revenue by the Borrower and its Subsidiaries in the ordinary course of business) and (b) any cash payments made during such period in respect of items described in clauses (e)(i) and (j) above subsequent to the fiscal quarter in which the relevant non-cash expenses or losses were reflected as a charge in the statement of Consolidated Net Income, all as determined on a consolidated basis.

“Consolidated Interest Expense”: for any period, total cash interest expense (including that attributable to Capital Lease Obligations) of the Borrower and its Subsidiaries for such period with respect to all outstanding Indebtedness of the Borrower and its Subsidiaries (including all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers’ acceptance financing and net payments made (less net payments, if any, received) under Swap Agreements in respect of interest rates to the extent such net payments are allocable to such period in accordance with GAAP) minus, to the extent included in cash interest expense, any payments required in connection with the termination of any Swap Agreements and all premiums paid, gains/losses incurred, charges and fees paid,

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in each case by the Borrower and its Subsidiaries in connection with the redemption, repurchase or retirement of Indebtedness.

“Consolidated Interest Expense Ratio”: for any period, the ratio of (a) Consolidated EBITDA for such period to (b) Consolidated Interest Expense for such period.

“Consolidated Leverage Ratio”: as at the last day of any period, the ratio of (a) Consolidated Total Debt on such day to (b) Consolidated EBITDA for such period.

“Consolidated Net Income”: for any period, the consolidated net income (or loss) of the Borrower and its Subsidiaries, determined on a consolidated basis in accordance with GAAP; provided that there shall be excluded (a) the income (or deficit) of any Person accrued prior to the date it becomes a Subsidiary of the Borrower or, other than an existing Subsidiary, is merged into or consolidated with the Borrower or any of its Subsidiaries, (b) the income (or deficit) of any Person (other than a Subsidiary of the Borrower) in which the Borrower or any of its Subsidiaries has an ownership interest, except to the extent that any such income is actually received by the Borrower or such Subsidiary in the form of dividends or similar distributions, (c) the undistributed earnings of any Subsidiary of the Borrower to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary to the Borrower or another Subsidiary is not at the time permitted by the terms of any Contractual Obligation (other than under any Loan Document) or Requirement of Law applicable to such Subsidiary, (d) any gain (or loss) realized upon the sale or other disposition of any assets of the Borrower or any Subsidiary (including pursuant to any sale and leaseback arrangement) which is not sold or otherwise disposed of in the ordinary course of business, (e) any net after-tax gain (loss) attributable to the early repurchase, extinguishment or conversion of Indebtedness, hedging obligations or other derivative instruments, (f) any unrealized foreign currency gains or losses in respect of Indebtedness of any Person denominated in a currency other than the functional currency of such Person, and (g) any income or loss from discontinued operations.

“Consolidated Total Debt”: at any date, the aggregate principal amount of all Indebtedness of the Borrower and its Subsidiaries at such date, determined on a consolidated basis in accordance with GAAP.

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

“Credit Party”: the Administrative Agent, the Issuing Lender or any other Lender.

“Default”: any of the events specified in Section 8, whether or not any requirement for the giving of notice, the lapse of time, or both, has been satisfied.

“Defaulting Lender”: any Lender that (a) has failed, within two Business Days of the date required to be funded or paid, to (i) fund any portion of its Loans, (ii) fund any portion of its participations in Letters of Credit or (iii) pay over to any Credit Party any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies the Administrative Agent in writing that such failure is the result of such Lender’s good faith determination that a condition precedent to funding (specifically identified and including the particular default, if any) has not been satisfied, (b) has notified the Borrower or any Credit Party in writing, or has made a public statement to the effect, that it does not intend or expect to comply with any of its funding obligations under this Agreement (unless such writing or public statement indicates that such position is based on such Lender’s good faith determination that a condition precedent (specifically identified and including the particular

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default, if any) to funding a loan under this Agreement cannot be satisfied) or generally under other agreements in which it commits to extend credit, (c) has failed, within three Business Days after request by a Credit Party, acting in good faith, to provide a certification in writing from an authorized officer of such Lender that it will comply with its obligations (and is financially able to meet such obligations) to fund prospective Loans and participations in then outstanding Letters of Credit under this Agreement, provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon such Credit Party's receipt of such certification in form and substance satisfactory to it and the Administrative Agent, or (d) has become the subject of a Bankruptcy Event.

"Designated Foreign Currencies": Australian dollars, Canadian dollars, Euros, Hong Kong dollars, New Zealand dollars, Singapore dollars, Sterling, Swiss francs, Indian rupees, Korean won, Mexican pesos and Yen.

"Disposition": with respect to any property, any sale, lease, sale and leaseback, assignment, conveyance, transfer or other disposition thereof. The terms "Dispose" and "Disposed of" shall have correlative meanings.

"Dollars" and "\$": dollars in lawful currency of the United States.

"Dollar Equivalent": with respect to any amount in respect of any Letter of Credit denominated in any Designated Foreign Currency, at any date of determination thereof, an amount in Dollars equivalent to such amount calculated on the basis of the Spot Rate of Exchange.

"Domestic Subsidiary": any Subsidiary of the Borrower organized under the laws of any jurisdiction within the United States.

"Environmental Laws": any and all applicable foreign, Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, requirements of any Governmental Authority or other Requirements of Law (including common law) regulating, relating to or imposing liability or standards of conduct concerning protection of human health as it relates to any Materials of Environmental Concern, or the protection of the environment, as now or may at any time hereafter be in effect.

"ERISA": the Employee Retirement Income Security Act of 1974, as amended from time to time.

"Eurocurrency Reserve Requirements": for any day as applied to a Eurodollar Loan, the aggregate (without duplication) of the maximum rates (expressed as a decimal fraction) of reserve requirements in effect on such day (including basic, supplemental, marginal and emergency reserves) under any regulations of the Board or other Governmental Authority having jurisdiction with respect thereto dealing with reserve requirements prescribed for eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D of the Board) maintained by a member bank of the Federal Reserve System.

"Eurodollar Base Rate": with respect to each day during each Interest Period pertaining to a Eurodollar Loan, the rate per annum determined on the basis of the rate for deposits in Dollars for a period equal to such Interest Period commencing on the first day of such Interest Period appearing on the Reuters Screen LIBOR01 Page as of 11:00 A.M., London time, two Business Days prior to the beginning of such Interest Period. In the event that such rate does not appear on such page (or otherwise on such screen), the "Eurodollar Base Rate" shall be determined by reference to such other comparable publicly available service for displaying eurodollar rates as may be selected by the Administrative Agent in

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consultation with the Borrower or, in the absence of such availability, by reference to the rate at which the Administrative Agent is offered Dollar deposits at or about 11:00 A.M., New York City time, two Business Days prior to the beginning of such Interest Period in the interbank eurodollar market where its eurodollar and foreign currency and exchange operations are then being conducted for delivery on the first day of such Interest Period for the number of days comprised therein.

“Eurodollar Loans”: Loans the rate of interest applicable to which is based upon the Eurodollar Rate.

“Eurodollar Rate”: with respect to each day during each Interest Period pertaining to a Eurodollar Loan, a rate per annum determined for such day in accordance with the following formula (rounded upward to the nearest 1/100,000th of 1%):

$$\frac{\text{Eurodollar Base Rate}}{1.00 - \text{Eurocurrency Reserve Requirements}}$$

“Eurodollar Tranche”: the collective reference to Eurodollar Loans under a particular Facility the then current Interest Periods with respect to all of which begin on the same date and end on the same later date (whether or not such Loans shall originally have been made on the same day).

“Event of Default”: any of the events specified in Section 8, provided that any requirement for the giving of notice, the lapse of time, or both, has been satisfied.

“Exchange Act”: as defined in Section 8.1(j).

“Existing Credit Agreement”: the credit agreement dated as of December 22, 2010, among the Borrower, the several lenders from time to time party thereto, JPMorgan Chase Bank, N.A., as the administrative agent, and the other agents party thereto, as amended.

“Existing Letters of Credit”: those letters of credit individually described on Schedule 3.9.

“Facility”: each of (a) the Term Commitments and the Term Loans made thereunder (the “Term Facility”) and (b) the Revolving Commitments and the extensions of credit made thereunder (the “Revolving Facility”).

“FATCA”: Sections 1471 through 1474 of the Code, as of the date of this Agreement and any regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code.

“Federal Funds Effective Rate”: for any day, the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average of the quotations for the day of such transactions received by JPMorgan Chase Bank from three federal funds brokers of recognized standing selected by it.

“Fee Payment Date”: (a) the third Business Day following the last day of each March, June, September and December and (b) the last day of the Revolving Commitment Period.

“Foreign Subsidiary”: any Subsidiary of the Borrower that is not a Domestic Subsidiary.

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“Funding Office”: the office of the Administrative Agent specified in Section 10.2 or such other office as may be specified from time to time by the Administrative Agent as its funding office by written notice to the Borrower and the Lenders.

“GAAP”: generally accepted accounting principles in the United States as in effect from time to time, except that for purposes of Section 7.1, GAAP shall be determined on the basis of such principles in effect on the date hereof and consistent with those used in the preparation of the most recent audited financial statements referred to in Section 4.1. In the event that any “Accounting Change” (as defined below) shall occur and such change results in a change in the method of calculation of financial covenants, standards or terms in this Agreement, then the Borrower and the Administrative Agent agree to enter into negotiations in order to amend such provisions of this Agreement so as to reflect equitably such Accounting Changes with the desired result that the criteria for evaluating the Borrower’s financial condition shall be the same after such Accounting Changes as if such Accounting Changes had not been made. Until such time as such an amendment shall have been executed and delivered by the Borrower, the Administrative Agent and the Required Lenders, all financial covenants, standards and terms in this Agreement shall continue to be calculated or construed as if such Accounting Changes had not occurred. “Accounting Changes” refers to changes in accounting principles required by (x) the promulgation of any rule, regulation, pronouncement or opinion by the Financial Accounting Standards Board of the American Institute of Certified Public Accountants or, if applicable, the SEC, or (y) the adoption by the Borrower of International Financial Reporting Standards.

“Governmental Authority”: any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government, any securities exchange and any self-regulatory organization (including the National Association of Insurance Commissioners).

“Group Members”: the collective reference to the Borrower and its respective Subsidiaries.

“Guarantee”: the Guarantee to be executed and delivered by each Subsidiary Guarantor, substantially in the form of Exhibit A.

“Guarantee Obligation”: as to any Person (the “guaranteeing person”), any obligation, including a reimbursement, counterindemnity or similar obligation, of the guaranteeing person that guarantees or in effect guarantees, or which is given to induce the creation of a separate obligation by another Person (including any bank under any letter of credit) that guarantees or in effect guarantees, any Indebtedness, leases, dividends or other obligations (the “primary obligations”) of any other third Person (the “primary obligor”) in any manner, whether directly or indirectly, including any obligation of the guaranteeing person, whether or not contingent, (i) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (ii) to advance or supply funds (1) for the purchase or payment of any such primary obligation or (2) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (iv) otherwise to assure or hold harmless the owner of any such primary obligation against loss in respect thereof; provided, however, that the term Guarantee Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Guarantee Obligation of any guaranteeing person shall be deemed to be the lower of (a) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee Obligation is made and (b) the maximum amount for which such guaranteeing person may be liable pursuant to the

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terms of the instrument embodying such Guarantee Obligation, unless such primary obligation and the maximum amount for which such guaranteeing person may be liable are not stated or determinable, in which case the amount of such Guarantee Obligation shall be such guaranteeing person's maximum reasonably anticipated liability in respect thereof as determined by the Borrower in good faith.

“Increasing Revolving Lender”: as defined in Section 2.4(b).

“Increasing Term Lender”: as defined in section 2.1(b).

“Incremental Amendment”: as defined in Section 2.1(b).

“Incremental Extensions of Credit”: as defined in Section 2.1(b).

“Incremental Facility Closing Date”: as defined in Section 2.1(b).

“Incremental Term Loans”: as defined in Section 2.1(b).

“Incremental Yield”: as defined in Section 2.1(b).

“Indebtedness”: of any Person at any date, without duplication, (a) all indebtedness of such Person for borrowed money, (b) all obligations of such Person for the deferred purchase price or deferred consideration or similar arrangements in respect of property or services (other than current trade payables incurred in the ordinary course of such Person's business), (c) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, (d) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (e) all Capital Lease Obligations of such Person, (f) all obligations of such Person, contingent or otherwise, as an account party or applicant under or in respect of acceptances, letters of credit, surety bonds or similar arrangements, (g) all Guarantee Obligations of such Person in respect of obligations of the kind referred to in clauses (a) through (f) above, (h) all obligations of the kind referred to in clauses (a) through (g) above secured by (or for which the holder of such obligation has an existing right, contingent or otherwise, to be secured by) any Lien on property (including accounts and contract rights) owned by such Person, whether or not such Person has assumed or become liable for the payment of such obligation, and (i) for the purposes of Section 8.1(e) only, all obligations of such Person in respect of Swap Agreements. For the avoidance of doubt, neither deferred compensation nor any pension obligations or liabilities shall be deemed to constitute ‘Indebtedness.’ The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness expressly provide that such Person is not liable therefor.

“Insolvency”: with respect to any Multiemployer Plan, the condition that such Plan is insolvent within the meaning of Section 4245 of ERISA.

“Insolvent”: pertaining to a condition of Insolvency.

“Intellectual Property”: the collective reference to all rights, priorities and privileges relating to intellectual property, whether arising under United States, multinational or foreign laws or otherwise, including, without limitation, copyrights, copyright licenses, patents, patent licenses, domain names, trademarks, trademark licenses, technology, know-how and processes, and all rights to sue at law

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or in equity for any infringement or other impairment thereof, including the right to receive all proceeds and damages therefrom.

“Interest Payment Date”: (a) as to any ABR Loan, the last day of each March, June, September and December to occur while such Loan is outstanding and the final maturity date of such Loan, (b) as to any Eurodollar Loan having an Interest Period of three months or less, the last day of such Interest Period, (c) as to any Eurodollar Loan having an Interest Period longer than three months, each day that is three months, or a whole multiple thereof, after the first day of such Interest Period and the last day of such Interest Period, and (d) as to any Loan (other than any Revolving Loan that is an ABR Loan), the date of any repayment or prepayment made in respect thereof.

“Interest Period”: as to any Eurodollar Loan, (a) initially, the period commencing on the borrowing or conversion date, as the case may be, with respect to such Eurodollar Loan and ending one, two, three or six months thereafter, as selected by the Borrower in its notice of borrowing or notice of conversion, as the case may be, given with respect thereto; and (b) thereafter, each period commencing on the last day of the next preceding Interest Period applicable to such Eurodollar Loan and ending one, two, three or six months thereafter, as selected by the Borrower by irrevocable notice to the Administrative Agent not later than 11:00 A.M., New York City time, on the date that is three Business Days prior to the last day of the then current Interest Period with respect thereto; provided that, all of the foregoing provisions relating to Interest Periods are subject to the following:

(i) if any Interest Period would otherwise end on a day that is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless the result of such extension would be to carry such Interest Period into another calendar month in which event such Interest Period shall end on the immediately preceding Business Day;

(ii) the Borrower may not select an Interest Period under a particular Facility that would extend beyond the Revolving Termination Date or beyond the date final payment is due on the Term Loans, as the case may be;

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

(iv) the Borrower shall select Interest Periods so as not to require a payment or prepayment of any Eurodollar Loan during an Interest Period for such Loan.

“Investments”: as defined in Section 7.8.

“Issuing Lender”: JPMorgan Chase Bank or any affiliate thereof, in its capacity as issuer of any Letter of Credit.

“JPMorgan Chase Bank”: JPMorgan Chase Bank, N.A.

“L/C Commitment”: \$40,000,000.

“L/C Obligations”: at any time, an amount equal to the sum of (a) the aggregate then undrawn and unexpired amount of the then outstanding Letters of Credit and (b) the aggregate amount of drawings under Letters of Credit that have not then been reimbursed pursuant to Section 3.5. The L/C Obligations in respect of any Letter of Credit in a Designated Foreign Currency shall be deemed for the purposes of calculating the Available Revolving Commitments and similar amounts from time to time

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and commitment fees and Letter of Credit and fronting fees to be equal to the Dollar Equivalent of the amount of such Designated Foreign Currency as at the date of issuance thereof, and such Dollar Equivalent shall be thereafter re-calculated by the Issuing Lender from time to time in its discretion (but no less often than quarterly); any such determination by the Issuing Lender of any such Dollar Equivalent amount shall be conclusive and binding on the other parties hereto in the absence of manifest error.

“L/C Participants”: the collective reference to all the Revolving Lenders other than the Issuing Lender.

“Lenders”: as defined in the preamble hereto; provided, that unless the context otherwise requires, each reference herein to the Lenders shall be deemed to include any Conduit Lender.

“Letters of Credit”: as defined in Section 3.1(a).

“Lien”: any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge or other security interest or any preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including any conditional sale or other title retention agreement and any capital lease having substantially the same economic effect as any of the foregoing).

“Loan”: any loan made by any Lender pursuant to this Agreement.

“Loan Documents”: this Agreement, the Guarantee, the Notes and any amendment, waiver, supplement or other modification to any of the foregoing.

“Loan Parties”: each Group Member that is a party to a Loan Document.

“Majority Facility Lenders”: with respect to any Facility, the holders of more than 50% of the aggregate unpaid principal amount of the Term Loans or the Total Revolving Extensions of Credit, as the case may be, outstanding under such Facility (or, in the case of the Revolving Facility, prior to any termination of the Revolving Commitments, the holders of more than 50% of the Total Revolving Commitments).

“Margin Stock”: “margin stock” as defined in Regulation U.

“Material Acquisition”: any acquisition of assets or series of related acquisitions of property that (a) constitutes assets comprising all or substantially all of an operating unit of a business or constitutes all or substantially all of the common stock of a Person and (b) involves the payment of consideration by the Borrower and its Subsidiaries in excess of \$1,000,000.

“Material Adverse Effect”: a material adverse effect on (a) the business, property, operations, or financial condition of the Borrower and its Subsidiaries taken as a whole or (b) the validity or enforceability of any of the material provisions of this Agreement or any of the other Loan Documents or the rights or remedies of the Administrative Agent or the Lenders hereunder or thereunder.

“Material Disposition”: any Disposition of property or series of related Dispositions of property that yields gross proceeds to the Borrower or any of its Subsidiaries in excess of \$1,000,000.

“Material Subsidiary”: any Subsidiary of the Borrower that either (i) holds assets having a total book value of greater than two percent (2%) of the total assets held by the Borrower and its Subsidiaries taken as a whole (as determined as of the end of the fiscal quarter immediately preceding the

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date of determination) or (ii) has revenues representing greater than five percent (5%) of total revenues of the Borrower and its Subsidiaries taken as a whole (for the period of four consecutive fiscal quarters most recently ended at or prior to such time and for which financial statements are available); provided, that (x) any Subsidiary that directly or indirectly owns a Material Subsidiary shall itself be a Material Subsidiary and (y) in the event Subsidiaries that would otherwise not be Material Subsidiaries shall in the aggregate account for a percentage in excess of 10% of the total assets attributable to the Borrower and its Subsidiaries taken as a whole (as determined as of the end of the fiscal quarter immediately preceding the date of determination) or 30% of the revenue of the Borrower and its Subsidiaries taken as a whole (for the period of four consecutive fiscal quarters most recently ended at or prior to such time and for which financial statements are available) then, in each case, one or more of such Subsidiaries designated by the Borrower (or, if the Borrower shall make no designation, one or more of such Subsidiaries in descending order based on their respective contributions to the total assets held by the Borrower and its Subsidiaries taken as a whole), shall be included as Material Subsidiaries to the extent necessary to eliminate such excess.

“Materials of Environmental Concern”: any gasoline or petroleum (including crude oil or any fraction thereof) or petroleum products, asbestos, polychlorinated biphenyls and urea-formaldehyde insulation and any other substances, materials or wastes, defined or regulated as “hazardous” or “toxic”, under, or that could give rise to liability pursuant to, any Environmental Law.

“Multiemployer Plan”: a Plan that is a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

“Net Cash Proceeds”: (a) in connection with any Asset Sale or any Recovery Event, the proceeds thereof in the form of cash and Cash Equivalents (including any such proceeds received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable or otherwise, but only as and when received), net of attorneys’ fees, accountants’ fees, investment banking fees, amounts required to be applied to the repayment of Indebtedness secured by a Lien expressly permitted hereunder on any asset that is the subject of such Asset Sale or Recovery Event and other customary fees and expenses actually incurred in connection therewith and net of taxes paid or reasonably estimated to be payable as a result thereof (after taking into account any available tax credits or deductions and any tax sharing arrangements) and (b) in connection with any issuance or sale of Capital Stock or any incurrence of Indebtedness, the cash proceeds received from such issuance or incurrence, net of attorneys’ fees, investment banking fees, accountants’ fees, underwriting discounts and commissions and other customary fees and expenses actually incurred in connection therewith.

“Non-Excluded Taxes”: as defined in Section 2.17(a).

“Non-U.S. Lender”: as defined in Section 2.17(d).

“Notes”: the collective reference to any promissory note evidencing Loans.

“Obligations”: the unpaid principal of and interest on (including interest accruing after the maturity of the Loans and Reimbursement Obligations and interest accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to the Borrower, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) the Loans and all other obligations and liabilities of the Borrower to the Administrative Agent or to any Lender (or, in the case of Specified Swap Agreements, any affiliate of any Lender), whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of, or in connection with, this Agreement, any other Loan Document, the Letters of Credit, any Specified Swap Agreement or any other document made, delivered

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or given in connection herewith or therewith, whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses (including all fees, charges and disbursements of counsel to the Administrative Agent or to any Lender that are required to be paid by the Borrower pursuant hereto) or otherwise.

“Other Taxes”: any and all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document, including any interest, additions to tax or penalties applicable thereto.

“Parent”: with respect to any Lender, any Person as to which such Lender is, directly or indirectly, a subsidiary.

“Participant”: as defined in Section 10.6(c).

“Participant Register”: as defined in Section 10.6(c)(i).

“PBGC”: the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA (or any successor).

“Permitted Acquisitions”: as defined in Section 7.4.

“Permitted Preferred Stock”: preferred stock issued by the Borrower that (a) does not require any repurchase or redemption (other than conversion or exchange into the common stock of the Borrower), whether contingent or not, prior to the date that is eight months after the Revolving Termination Date and (b) is in the Borrower’s good faith opinion on terms and conditions customary in the relevant capital markets for preferred stock issued by issuers similar to the Borrower.

“Permitted Senior Unsecured Debt”: senior unsecured Indebtedness of the Borrower that (a) requires no scheduled cash payments of principal and no mandatory repurchase or redemption obligations prior to the date that is six months after the Revolving Termination Date, other than in connection with a change of control of Borrower or similar event or an asset disposition and (b) does not impose financial “maintenance” (as distinct from “incurrence”) covenants on the Borrower or any of the Subsidiaries that are more restrictive than the maintenance covenants herein.

“Permitted Subordinated Debt”: subordinated, unsecured Indebtedness of the Borrower that (a) requires no scheduled cash payments of principal and no mandatory repurchase or redemption obligations prior to the date that is six months after the Revolving Termination Date, other than in connection with a change of control of Borrower or similar event or an asset disposition, (b) does not impose financial “maintenance” (as distinct from “incurrence”) covenants on the Borrower or any of the Subsidiaries that are more restrictive than the maintenance covenants herein, and (c) contains customary subordination terms that are reasonably acceptable to the Administrative Agent.

“Person”: an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

“Plan”: at a particular time, any employee benefit plan that is covered by ERISA and in respect of which the Borrower or a Commonly Controlled Entity is (or, if such plan were terminated at such time, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

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“Prime Rate”: the rate of interest per annum publicly announced from time to time by JPMorgan Chase Bank, N.A. as its prime rate in effect at its principal office in New York City (the Prime Rate not being intended to be the lowest rate of interest charged by JPMorgan Chase Bank, N.A. in connection with extensions of credit to debtors).

“Pro Forma Basis”: with respect to any calculation made at any time that is, at any date or for any period, after taking into account (a) any Material Acquisition or Material Disposition and (b) any redemption, repurchase, retirement, defeasance, discharge or incurrence of Indebtedness that has occurred by such time as though such Material Acquisition, Material Disposition, redemption, repurchase, retirement, discharge or incurrence had occurred at or prior to such date or on the first day of such period, as the case may be.

“Projections”: as defined in Section 6.2(c).

“Properties”: as defined in Section 4.17(a).

“Recovery Event”: any settlement of or payment in respect of any property or casualty insurance claim or any condemnation proceeding relating to any asset of any Group Member.

“Register”: as defined in Section 10.6(b).

“Regulation U”: Regulation U of the Board as in effect from time to time.

“Reimbursement Obligation”: the obligation of the Borrower to reimburse the Issuing Lender pursuant to Section 3.5 for amounts drawn under Letters of Credit.

“Reimbursement Percentage”: as defined in Section 3.5.

“Reinvestment Deferred Amount”: with respect to any Reinvestment Event, the aggregate Net Cash Proceeds received by any Group Member in connection therewith that are not applied to prepay the Term Loans pursuant to Section 2.9(c) as a result of the delivery of a Reinvestment Notice.

“Reinvestment Event”: any Asset Sale or Recovery Event in respect of which the Borrower has delivered a Reinvestment Notice.

“Reinvestment Notice”: a written notice executed by a Responsible Officer stating that no Event of Default has occurred and is continuing and that the Borrower (directly or indirectly through a Subsidiary) intends and expects to use all or a specified portion of the Net Cash Proceeds of an Asset Sale or Recovery Event to acquire or repair assets useful in its business.

“Reinvestment Prepayment Amount”: with respect to any Reinvestment Event, the Reinvestment Deferred Amount relating thereto less any amount expended prior to the relevant Reinvestment Prepayment Date to acquire or repair assets useful in the Borrower’s business.

“Reinvestment Prepayment Date”: with respect to any Reinvestment Event, the earlier of (a) the date occurring twelve months after such Reinvestment Event and (b) the date on which the Borrower shall have determined not to, or shall have otherwise ceased to, acquire or repair assets useful in the Borrower’s business with all or any portion of the relevant Reinvestment Deferred Amount.

“Reorganization”: with respect to any Multiemployer Plan, the condition that such plan is in reorganization within the meaning of Section 4241 of ERISA.

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“Reportable Event”: any of the events set forth in Section 4043(c) of ERISA, other than those events as to which the thirty day notice period is waived under subsections .27, .28, .29, .30, .31, .32, .34 or .35 of PBGC Reg. § 4043.

“Required Lenders”: at any time, the holders of more than 50% of (a) until the Closing Date, the Commitments then in effect and (b) thereafter, the sum of (i) the aggregate unpaid principal amount of the Term Loans then outstanding and (ii) the Total Revolving Commitments then in effect or, if the Revolving Commitments have been terminated, the Total Revolving Extensions of Credit then outstanding.

“Requirement of Law”: as to any Person, the Certificate of Incorporation and By-Laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

“Responsible Officer”: the chief executive officer, president, chief financial officer, treasurer or assistant treasurer of the Borrower, but in any event, with respect to financial matters, the chief financial officer, treasurer or assistant treasurer of the Borrower.

“Restricted Payments”: as defined in Section 7.6.

“Revolving Commitment”: as to any Lender, the obligation of such Lender, if any, to make Revolving Loans and participate in Letters of Credit in an aggregate principal and/or face amount not to exceed the amount set forth under the heading “Revolving Commitment” opposite such Lender’s name on Schedule 1.1A or in the Assignment and Assumption pursuant to which such Lender became a party hereto, as the same may be changed from time to time pursuant to the terms hereof. The original amount of the Total Revolving Commitments is \$600,000,000.

“Revolving Commitment Period”: the period from and including the Closing Date to the Revolving Termination Date.

“Revolving Commitment Increase”: as defined in Section 2.4.

“Revolving Extensions of Credit”: as to any Revolving Lender at any time, an amount equal to the sum of (a) the aggregate principal amount of all Revolving Loans held by such Lender then outstanding and (b) such Lender’s Revolving Percentage of the L/C Obligations then outstanding.

“Revolving Facility”: as defined in the definition of Facility.

“Revolving Lender”: each Lender that has a Revolving Commitment or that holds Revolving Loans.

“Revolving Loans”: as defined in Section 2.4(a).

“Revolving Percentage”: as to any Revolving Lender at any time, the percentage which such Lender’s Revolving Commitment then constitutes of the Total Revolving Commitments or, at any time after the Revolving Commitments shall have expired or terminated, the percentage which the aggregate principal amount of such Lender’s Revolving Loans then outstanding constitutes of the aggregate principal amount of the Revolving Loans then outstanding, provided, that, in the event that the Revolving Loans are paid in full prior to the reduction to zero of the Total Revolving Extensions of Credit, the Revolving Percentages shall be determined in a manner designed to ensure that the other

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outstanding Revolving Extensions of Credit shall be held by the Revolving Lenders on a comparable basis.

“Revolving Termination Date”: March 7, 2018.

“SEC”: the Securities and Exchange Commission, any successor thereto and any analogous Governmental Authority.

“Single Employer Plan”: any Plan that is covered by Title IV of ERISA, but that is not a Multiemployer Plan.

“Solvent”: when used with respect to any Person, means that, as of any date of determination, (a) the amount of the “present fair saleable value” of the assets of such Person will, as of such date, exceed the amount of all “liabilities of such Person, contingent or otherwise”, as of such date, as such quoted terms are determined in accordance with applicable federal and state laws governing determinations of the insolvency of debtors, (b) the present fair saleable value of the assets of such Person will, as of such date, be greater than the amount that will be required to pay the liability of such Person on its debts as such debts become absolute and matured, (c) such Person will not have, as of such date, an unreasonably small amount of capital with which to conduct its business, and (d) such Person will be able to pay its debts as they mature. The amount of contingent liabilities at any time shall be computed as the amount that, in light of all the facts and circumstances existing at the time, represents the amount that would reasonably be expected to become an actual or matured liability.

“Specified Swap Agreement”: any Swap Agreement entered into by the Borrower and any Lender or affiliate thereof at the time of entering into such Swap Agreement in respect of interest rates, currency exchange rates or commodity prices.

“Spot Rate of Exchange”: with respect to any Designated Foreign Currency, at any date of determination thereof, the spot rate of exchange in London that appears on the display page applicable to such Designated Foreign Currency on the Telerate System (or such other page as may replace such page for the purpose of displaying the spot rate of exchange in London); provided that if there shall at any time no longer exist such a page, the spot rate of exchange shall be determined by reference to another similar rate publishing service selected by the Administrative Agent and, if no such similar rate publishing service is available, by reference to the published rate of the Administrative Agent in effect at such date for similar commercial transactions.

“Subsidiary”: as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise qualified, all references to a “Subsidiary” or to “Subsidiaries” in this Agreement shall refer to a Subsidiary or Subsidiaries of the Borrower.

“Subsidiary Guarantor”: each Domestic Subsidiary of the Borrower that is a Material Subsidiary.

“Swap”: any agreement, contract, or transaction that constitutes a “swap” within the meaning of section 1a(47) of the Commodity Exchange Act.

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“Swap Agreement”: any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower or any of its Subsidiaries shall be a “Swap Agreement”.

“Swap Obligation”: with respect to any Person, any obligation to pay or perform under any Swap.

“Term Commitment”: as to any Lender, the obligation of such Lender, if any, to make a Term Loan to the Borrower in a principal amount not to exceed the amount set forth under the heading “Term Commitment” opposite such Lender’s name on Schedule 1.1A. The original aggregate amount of the Term Commitments is \$150,000,000.

“Term Facility”: as defined in the definition of Facility.

“Term Lender”: each Lender that has a Term Commitment or that holds a Term Loan.

“Term Loan”: as defined in Section 2.1.

“Term Percentage”: as to any Term Lender at any time, the percentage which such Lender’s Term Commitment then constitutes of the aggregate Term Commitments (or, at any time after the Closing Date, the percentage which the aggregate principal amount of such Lender’s Term Loans then outstanding constitutes of the aggregate principal amount of the Term Loans then outstanding).

“Total Revolving Commitments”: at any time, the aggregate amount of the Revolving Commitments then in effect.

“Total Revolving Extensions of Credit”: at any time, the aggregate amount of the Revolving Extensions of Credit of the Revolving Lenders outstanding at such time.

“Transferee”: any Assignee or Participant.

“Type”: as to any Loan, its nature as an ABR Loan or a Eurodollar Loan.

“United States”: the United States of America.

“Weighted Average Life to Maturity”: when applied to any Indebtedness at any date, the number of years obtained by dividing:

(a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect of the Indebtedness, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by

(b) the then outstanding principal amount of such Indebtedness.

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“Wholly Owned Subsidiary”: as to any Person, any other Person all of the Capital Stock of which (other than directors’ qualifying shares or similar third party share agreements required by law) is owned by such Person directly and/or through other Wholly Owned Subsidiaries.

“Wholly Owned Subsidiary Guarantor”: any Subsidiary Guarantor that is a Wholly Owned Subsidiary of the Borrower.

“Withholding Agent”: any Loan Party and the Administrative Agent.

1.2 Other Definitional Provisions. (a) Unless otherwise specified therein, all terms defined in this Agreement shall have the defined meanings when used in the other Loan Documents or any certificate or other document made or delivered pursuant hereto or thereto.

(b) As used herein and in the other Loan Documents, and any certificate or other document made or delivered pursuant hereto or thereto, (i) accounting terms relating to any Group Member not defined in Section 1.1 and accounting terms partly defined in Section 1.1, to the extent not defined, shall have the respective meanings given to them under GAAP (provided that 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) any election under Accounting Standards Codification 825-10-25 (previously referred to as Statement of Financial Accounting Standards 159) (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Borrower or any Subsidiary at “fair value”, as defined therein and (ii) any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof), (ii) the words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”, (iii) the word “incur” shall be construed to mean incur, create, issue, assume, become liable in respect of or suffer to exist (and the words “incurred” and “incurrence” shall have correlative meanings), (iv) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, Capital Stock, securities, revenues, accounts, leasehold interests and contract rights, and (v) references to agreements or other Contractual Obligations shall, unless otherwise specified, be deemed to refer to such agreements or Contractual Obligations as amended, supplemented, restated or otherwise modified from time to time.

(c) The words “hereof”, “herein” and “hereunder” and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section, Schedule and Exhibit references are to this Agreement unless otherwise specified.

(d) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

## SECTION 2. AMOUNT AND TERMS OF COMMITMENTS

2.1 Term Commitments. (a) Subject to the terms and conditions hereof, each Term Lender severally agrees to make a term loan (a “Term Loan”) to the Borrower in Dollars on the Closing Date in an amount not to exceed the amount of the Term Commitment of such Lender. The Term Loans may from time to time be Eurodollar Loans or ABR Loans, as determined by the Borrower and notified to the Administrative Agent in accordance with Sections 2.2 and 2.10.

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(b) (i) The Borrower may at any time or from time to time after the Closing Date, by notice to the Administrative Agent (whereupon the Administrative Agent shall promptly deliver a copy to each of the Lenders), request one or more additional tranches of term loans (the "Incremental Term Loans" and such borrowing, an "Incremental Extension of Credit"); provided that both at the time of any such request and upon the effectiveness of any Incremental Amendment referred to below, no Default or Event of Default shall exist. Each Incremental Extension of Credit shall be in an aggregate principal amount that is not less than \$5,000,000. Notwithstanding anything to the contrary herein, the aggregate amount of any Incremental Extension of Credit, when taken together with all other Incremental Extensions of Credit and all Revolving Commitment Increases, shall not exceed \$250,000,000. The Incremental Term Loans shall rank pari passu in right of payment and of security with the Term Loans. The Incremental Term Loans (i) shall not mature earlier than the Revolving Termination Date and shall have a Weighted Average Life to Maturity no shorter than the Weighted Average Life to Maturity of the Term Loans (except by virtue of amortization of or prepayment of the Term Loans and prepayments of scheduled amortization prior to such date of determination) and (i) except as set forth above and below, shall be treated substantially the same as the Term Loans (in each case, including with respect to mandatory and voluntary prepayments); provided that (x) the interest rates (subject to clause (y) below) and amortization schedule (subject to clause (i) above) applicable to the Incremental Term Loans shall be determined by the Borrower and the lenders thereof, (y) in the event that the yield on any Incremental Term Loans (taking into account interest margins, minimum Eurodollar Base Rate, minimum ABR, upfront fees and OID on such term loans with upfront fees and OID equated to interest margins based on an assumed four year life to maturity, but excluding upfront fees, ticking fees, arranging fees and any other fees not paid to the market generally) (the "Incremental Yield") exceeds the yield on the Term Facility by more than 0.50%, then the interest margins for the Term Loans shall automatically be increased to a level such that the yield on the Term Loans shall be 0.50% below the Incremental Yield and (z) to the extent such terms applicable to the Incremental Term Loans are not consistent with the then existing Term Loans (except as permitted by the immediately preceding clause (x)) such terms shall be mutually agreed to by the Borrower and the Administrative Agent.

(ii) Each notice from the Borrower pursuant to this Section shall set forth the requested amount and proposed terms of the relevant Incremental Extension of Credit. The Borrower may arrange for any such increase to be provided by one or more Lenders (each Lender so agreeing to an increase in its Term Commitment, an "Increasing Term Lender"), or by one or more new banks, financial institutions or other entities (each such new bank, financial institution or other entity, an "Augmenting Term Lender"); provided that (i) each Augmenting Term Lender, shall be subject to the approval of the Borrower and the Administrative Agent (such approval by the Administrative Agent not to be unreasonably withheld) and (ii) (x) in the case of an Increasing Term Lender, the Borrower and such Increasing Term Lender execute an agreement substantially in the form of Exhibit G hereto, and (y) in the case of an Augmenting Term Lender, the Borrower and such Augmenting Term Lender execute an agreement substantially in the form of Exhibit H hereto.

(iii) 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 Lender agreeing to provide such Commitment, if any, each Incremental Term Lender, if any, each Augmenting Term Lender, if any, and the Administrative Agent. The Incremental Amendment may, without the consent of any other Lenders, 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; provided that any amendments included in any Incremental Amendment meant to effect changes not relating to this Section 2.1(b) shall require the vote of the Lenders as described in Section 10.1 hereof. The making of any loans pursuant to any Incremental Amendment shall not be effective unless on the date thereof (each, an "Incremental Facility Closing Date"), after giving effect to

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such Incremental Extension of Credit (i) the conditions set forth in Section 5.2 are satisfied, (ii) the Borrower shall be in compliance with Section 7.1, (iii) the Administrative Agent shall have received documents consistent with those delivered on the Closing Date under Section 5.1(f) as to the corporate power and authority of the Borrower to borrow hereunder after giving effect to such increase, and (iv) such other conditions as the parties thereto shall agree. The Borrower will use the proceeds of the Incremental Term Loans for any purpose not prohibited by this Agreement. No Lender shall be obligated to provide any Incremental Term Loans unless it so agrees.

2.2 Procedure for Term Loan Borrowing. The Borrower shall give the Administrative Agent irrevocable notice (which notice must be received by the Administrative Agent prior to 10:00 A.M., New York City time, one Business Day prior to the anticipated Closing Date) requesting that the Term Lenders make the Term Loans on the Closing Date and specifying the amount to be borrowed. The Term Loans made on the Closing Date shall initially be ABR Loans. Upon receipt of such notice the Administrative Agent shall promptly notify each Term Lender thereof. Not later than 12:00 Noon, New York City time, on the Closing Date each Term Lender shall make available to the Administrative Agent at the Funding Office an amount in immediately available funds equal to the Term Loan or Term Loans to be made by such Lender. The Administrative Agent shall credit the account of the Borrower on the books of such office of the Administrative Agent with the aggregate of the amounts made available to the Administrative Agent by the Term Lenders in immediately available funds.

2.3 Repayment of Term Loans. The Term Loan of each Lender shall mature in 16 consecutive quarterly installments (with the balance of the Term Loan of each Lender maturing on the Revolving Termination Date), each of which shall be in an amount equal to such Lender's Term Percentage multiplied by the amount set forth below opposite such installment:

Installment	Principal Amount
June 30, 2013	\$ 1,875,000
September 30, 2013	\$ 1,875,000
December 31, 2013	\$ 1,875,000
March 31, 2014	\$ 1,875,000
June 30, 2014	\$ 3,750,000
September 30, 2014	\$ 3,750,000
December 31, 2014	\$ 3,750,000
March 31, 2015	\$ 3,750,000
June 30, 2015	\$ 3,750,000
September 30, 2015	\$ 3,750,000
December 31, 2015	\$ 3,750,000
March 31, 2016	\$ 3,750,000
June 30, 2016	\$ 5,625,000
September 30, 2016	\$ 5,625,000
December 31, 2016	\$ 5,625,000
March 31, 2017	\$ 5,625,000
Revolving Termination Date	\$ 90,000,000

2.4 Revolving Commitments. (a) Subject to the terms and conditions hereof, each Revolving Lender severally agrees to make revolving credit loans ("Revolving Loans") to the Borrower in Dollars from time to time during the Revolving Commitment Period in an aggregate principal amount at any one time outstanding which, when added to such Lender's Revolving Percentage of the L/C Obligations then outstanding does not exceed the amount of such Lender's Revolving Commitment. During the Revolving Commitment Period the Borrower may use the Revolving Commitments by



borrowing, prepaying the Revolving Loans in whole or in part, and reborrowing, all in accordance with the terms and conditions hereof. The Revolving Loans may from time to time be Eurodollar Loans or ABR Loans, as determined by the Borrower and notified to the Administrative Agent in accordance with Sections 2.5 and 2.10.

(b) The Borrower may from time to time elect to increase the Revolving Commitments (a “Revolving Commitment Increase”) in a minimum amount of \$5,000,000 so long as, after giving effect thereto, the aggregate amount of the Incremental Extensions of Credit and Revolving Commitment Increases does not exceed \$250,000,000. The Borrower may arrange for any such increase to be provided by one or more Lenders (each Lender so agreeing to an increase in its Revolving Commitment, an “Increasing Revolving Lender”), or by one or more new banks, financial institutions or other entities (each such new bank, financial institution or other entity, an “Augmenting Revolving Lender”), to increase their existing Revolving Commitments, or extend Revolving Commitments, as the case may be, provided that (i) each Augmenting Revolving Lender, shall be subject to the approval of the Borrower and the Administrative Agent (such approval by the Administrative Agent not to be unreasonably withheld) and (ii) (x) in the case of an Increasing Revolving Lender, the Borrower and such Increasing Revolving Lender execute an agreement substantially in the form of Exhibit G hereto, and (y) in the case of an Augmenting Revolving Lender, the Borrower and such Augmenting Revolving Lender execute an agreement substantially in the form of Exhibit H hereto. Increases and new Revolving Commitments created pursuant to this clause shall become effective on the date agreed by the Borrower, the Administrative Agent (such approval by the Administrative Agent not to be unreasonably withheld) and the relevant Increasing Revolving Lenders or Augmenting Revolving Lenders and the Administrative Agent shall notify each Revolving Lender thereof. Notwithstanding the foregoing, no increase in the Revolving Commitments (or in the Revolving Commitment of any Lender), shall become effective under this paragraph unless, (i) on the proposed date of the effectiveness of such increase, the conditions set forth in paragraphs (a) and (b) of Section 5.2 shall be satisfied or waived by the Required Lenders and the Administrative Agent shall have received a certificate to that effect dated such date and executed by a Responsible Officer of the Borrower, (ii) after giving effect to such Revolving Commitment Increase, the Borrower shall be in compliance with Section 7.1, and (iii) the Administrative Agent shall have received documents consistent with those delivered on the Closing Date under Section 5.1(f) as to the corporate power and authority of the Borrower to borrow hereunder after giving effect to such increase. On the effective date of any increase in the Revolving Commitments, (i) each relevant Increasing Revolving Lender and Augmenting Revolving Lender shall make available to the Administrative Agent such amounts in immediately available funds as the Administrative Agent shall determine, for the benefit of the other Revolving Lenders, as being required in order to cause, after giving effect to such increase and the use of such amounts to make payments to such other Revolving Lenders, each Revolving Lender’s portion of the outstanding Revolving Loans of all the Revolving Lenders to equal its Revolving Percentage of such outstanding Revolving Loans, and (ii) the Borrower shall be deemed to have repaid and reborrowed all outstanding Revolving Loans as of the date of any increase in the Revolving Commitments (with such reborrowing to consist of the Types of Revolving Loans, with related Interest Periods if applicable, specified in a notice delivered by the Borrower in accordance with the requirements of Section 2.5). The deemed payments made pursuant to clause (ii) of the immediately preceding sentence in respect of each Eurodollar Loan shall be subject to indemnification by the Borrower pursuant to the provisions of Section 2.18 if the deemed payment occurs other than on the last day of the related Interest Periods.

(c) The Borrower shall repay all outstanding Revolving Loans on the Revolving Termination Date.

2.5 Procedure for Revolving Loan Borrowing. The Borrower may borrow under the Revolving Commitments during the Revolving Commitment Period on any Business Day, provided that

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the Borrower shall give the Administrative Agent irrevocable notice (which notice must be received by the Administrative Agent prior to 12:00 Noon, New York City time, (a) three Business Days prior to the requested Borrowing Date, in the case of Eurodollar Loans, or (b) one Business Day prior to the requested Borrowing Date, in the case of ABR Loans) (provided that any such notice of a borrowing of ABR Loans under the Revolving Facility to finance payments required by Section 3.5 may be given not later than 10:00 A.M., New York City time, on the date of the proposed borrowing), specifying (i) the amount and Type of Revolving Loans to be borrowed, (ii) the requested Borrowing Date and (iii) in the case of Eurodollar Loans, the respective amounts of each such Type of Loan and the respective lengths of the initial Interest Period therefor. Any Revolving Loans made on the Closing Date shall initially be ABR Loans. Each borrowing under the Revolving Commitments shall be in an amount equal to (x) in the case of ABR Loans, \$1,000,000 or a whole multiple thereof (or, if the then aggregate Available Revolving Commitments are less than \$1,000,000, such lesser amount) and (y) in the case of Eurodollar Loans, \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof. Upon receipt of any such notice from the Borrower, the Administrative Agent shall promptly notify each Revolving Lender thereof. Each Revolving Lender will make the amount of its pro rata share of each borrowing available to the Administrative Agent for the account of the Borrower at the Funding Office prior to 12:00 Noon, New York City time, on the Borrowing Date requested by the Borrower in funds immediately available to the Administrative Agent. Such borrowing will then be made available to the Borrower by the Administrative Agent crediting the account of the Borrower on the books of such office with the aggregate of the amounts made available to the Administrative Agent by the Revolving Lenders and in like funds as received by the Administrative Agent.

2.6 Commitment Fees, etc. (a) The Borrower agrees to pay to the Administrative Agent for the account of each Revolving Lender a commitment fee for the period from and including the date hereof to the last day of the Revolving Commitment Period, computed at the Commitment Fee Rate on the average daily amount of the Available Revolving Commitment of such Lender during the period for which payment is made, payable quarterly in arrears on each Fee Payment Date, commencing on the first such date to occur after the date hereof.

(b) The Borrower agrees to pay to the Administrative Agent the fees in the amounts and on the dates as set forth in any fee agreements with the Administrative Agent and to perform any other obligations contained therein.

2.7 Termination or Reduction of Revolving Commitments. The Borrower shall have the right, upon not less than three Business Days' notice to the Administrative Agent, to terminate the Revolving Commitments or, from time to time, to reduce the amount of the Revolving Commitments; provided that no such termination or reduction of Revolving Commitments shall be permitted to the extent that, after giving effect thereto and to any prepayments of the Revolving Loans made on the effective date thereof, the Total Revolving Extensions of Credit would exceed the Total Revolving Commitments. Any such reduction shall be in an amount equal to \$5,000,000, or a whole multiple thereof, and shall reduce permanently the Revolving Commitments then in effect.

2.8 Optional Prepayments. The Borrower may at any time and from time to time prepay the Loans, in whole or in part, without premium or penalty, upon irrevocable notice delivered to the Administrative Agent no later than 11:00 A.M., New York City time, three Business Days prior thereto, in the case of Eurodollar Loans, and no later than 11:00 A.M., New York City time, one Business Day prior thereto, in the case of ABR Loans, which notice shall specify the date and amount of prepayment and whether the prepayment is of Eurodollar Loans or ABR Loans; provided, that if a Eurodollar Loan is prepaid on any day other than the last day of the Interest Period applicable thereto, the Borrower shall also pay any amounts owing pursuant to Section 2.18. Upon receipt of any such notice the Administrative Agent shall promptly notify each relevant Lender thereof. If any such notice is given,

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the amount specified in such notice shall be due and payable on the date specified therein, together with (except in the case of Revolving Loans that are ABR Loans) accrued interest to such date on the amount prepaid. Partial prepayments of Term Loans and Revolving Loans shall be in an aggregate principal amount of \$1,000,000 or a whole multiple thereof.

**2.9 Mandatory Prepayments and Commitment Reductions.** (a) If on any date any Group Member shall receive Net Cash Proceeds from any Asset Sale or Recovery Event, and the Consolidated Leverage Ratio of the Borrower for the most recently ended four fiscal quarters is greater than 2.00 to 1.00, then, unless a Reinvestment Notice shall be delivered in respect thereof, an amount equal to 50% of such Net Cash Proceeds shall be applied on such date to the prepayment of the Term Loans as set forth in Section 2.9(b); provided, that, notwithstanding the foregoing, on each Reinvestment Prepayment Date, an amount equal to the Reinvestment Prepayment Amount with respect to the relevant Reinvestment Event shall be applied to the prepayment of the Term Loans as set forth in Section 2.9(b).

(b) Amounts to be applied in connection with prepayments made pursuant to Section 2.9 shall be applied to the prepayment of the Term Loans in accordance with Section 2.15(b). The application of any prepayment pursuant to Section 2.9 shall be made, first, to ABR Loans and, second, to Eurodollar Loans. Each prepayment of the Loans under Section 2.9 shall be accompanied by accrued interest to the date of such prepayment on the amount prepaid.

**2.10 Conversion and Continuation Options.** (a) The Borrower may elect from time to time to convert Eurodollar Loans to ABR Loans by giving the Administrative Agent prior irrevocable notice of such election no later than 11:00 A.M., New York City time, on the Business Day preceding the proposed conversion date, provided that any such conversion of Eurodollar Loans may only be made on the last day of an Interest Period with respect thereto. The Borrower may elect from time to time to convert ABR Loans to Eurodollar Loans by giving the Administrative Agent prior irrevocable notice of such election no later than 11:00 A.M., New York City time, on the third Business Day preceding the proposed conversion date (which notice shall specify the length of the initial Interest Period therefor), provided that no ABR Loan under a particular Facility may be converted into a Eurodollar Loan when any Event of Default has occurred and is continuing and the Administrative Agent or the Majority Facility Lenders in respect of such Facility have determined in its or their sole discretion not to permit such conversions. Upon receipt of any such notice the Administrative Agent shall promptly notify each relevant Lender thereof.

(b) Any Eurodollar Loan may be continued as such upon the expiration of the then current Interest Period with respect thereto by the Borrower giving irrevocable notice to the Administrative Agent, in accordance with the applicable provisions of the term "Interest Period" set forth in Section 1.1, of the length of the next Interest Period to be applicable to such Loans, provided that no Eurodollar Loan under a particular Facility may be continued as such when any Event of Default has occurred and is continuing and the Administrative Agent has or the Majority Facility Lenders in respect of such Facility have determined in its or their sole discretion not to permit such continuations, and provided, further, that if the Borrower shall fail to give any required notice as described above in this paragraph or if such continuation is not permitted pursuant to the preceding proviso such Loans shall be automatically converted to ABR Loans on the last day of such then expiring Interest Period. Upon receipt of any such notice the Administrative Agent shall promptly notify each relevant Lender thereof.

**2.11 Limitations on Eurodollar Tranches.** Notwithstanding anything to the contrary in this Agreement, all borrowings, conversions and continuations of Eurodollar Loans and all selections of Interest Periods shall be in such amounts and be made pursuant to such elections so that, (a) after giving effect thereto, the aggregate principal amount of the Eurodollar Loans comprising each Eurodollar

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Tranche shall be equal to \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof and (b) no more than ten Eurodollar Tranches shall be outstanding at any one time.

2.12 Interest Rates and Payment Dates. (a) Each Eurodollar Loan shall bear interest for each day during each Interest Period with respect thereto at a rate per annum equal to the Eurodollar Rate determined for such day plus the Applicable Margin.

(b) Each ABR Loan shall bear interest at a rate per annum equal to the ABR plus the Applicable Margin.

(c) (i) If all or a portion of the principal amount of any Loan or Reimbursement Obligation shall not be paid when due (whether at the stated maturity, by acceleration or otherwise), all outstanding Loans and Reimbursement Obligations (whether or not overdue) shall bear interest at a rate per annum equal to (x) in the case of the Loans, the rate that would otherwise be applicable thereto pursuant to the foregoing provisions of this Section plus 2% or (y) in the case of Reimbursement Obligations, the rate applicable to ABR Loans under the Revolving Facility plus 2%, and (ii) if all or a portion of any interest payable on any Loan or Reimbursement Obligation or any commitment fee or other amount payable hereunder shall not be paid when due (whether at the stated maturity, by acceleration or otherwise), such overdue amount shall bear interest at a rate per annum equal to the rate then applicable to ABR Loans under the relevant Facility plus 2% (or, in the case of any such other amounts that do not relate to a particular Facility, the rate then applicable to ABR Loans under the Revolving Facility plus 2%), in each case, with respect to clauses (i) and (ii) above, from the date of such non-payment until such amount is paid in full (as well after as before judgment).

(d) Interest shall be payable in arrears on each Interest Payment Date, provided that interest accruing pursuant to paragraph (c) of this Section shall be payable from time to time on demand.

2.13 Computation of Interest and Fees. (a) Interest and fees payable pursuant hereto shall be calculated on the basis of a 360-day year for the actual days elapsed, except that, with respect to ABR Loans the rate of interest on which is calculated on the basis of the Prime Rate, the interest thereon shall be calculated on the basis of a 365- (or 366-, as the case may be) day year for the actual days elapsed. The Administrative Agent shall as soon as practicable notify the Borrower and the relevant Lenders of each determination of a Eurodollar Rate. Any change in the interest rate on a Loan resulting from a change in the ABR or the Eurocurrency Reserve Requirements shall become effective as of the opening of business on the day on which such change becomes effective. The Administrative Agent shall as soon as practicable notify the Borrower and the relevant Lenders of the effective date and the amount of each such change in interest rate.

(b) Each determination of an interest rate by the Administrative Agent pursuant to any provision of this Agreement shall be conclusive and binding on the Borrower and the Lenders in the absence of manifest error. The Administrative Agent shall, at the request of the Borrower, deliver to the Borrower a statement showing the quotations used by the Administrative Agent in determining any interest rate pursuant to Section 2.12(a).

2.14 Inability to Determine Interest Rate. If prior to the first day of any Interest Period:

(a) the Administrative Agent shall have determined (which determination shall be conclusive and binding upon the Borrower) that, by reason of circumstances affecting the relevant market, adequate and reasonable means do not exist for ascertaining the Eurodollar Rate for such Interest Period, or

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(b) the Administrative Agent shall have received notice from the Majority Facility Lenders in respect of the relevant Facility that the Eurodollar Rate determined or to be determined for such Interest Period will not adequately and fairly reflect the cost to such Lenders (as conclusively certified by such Lenders) of making or maintaining their affected Loans during such Interest Period,

the Administrative Agent shall give teletype or telephonic notice thereof to the Borrower and the relevant Lenders as soon as practicable thereafter. If such notice is given (x) any Eurodollar Loans under the relevant Facility requested to be made on the first day of such Interest Period shall be made as ABR Loans, (y) any Loans under the relevant Facility that were to have been converted on the first day of such Interest Period to Eurodollar Loans shall be continued as ABR Loans and (z) any outstanding Eurodollar Loans under the relevant Facility shall be converted, on the last day of the then-current Interest Period, to ABR Loans. Until such notice has been withdrawn by the Administrative Agent, no further Eurodollar Loans under the relevant Facility shall be made or continued as such, nor shall the Borrower have the right to convert Loans under the relevant Facility to Eurodollar Loans.

2.15 Pro Rata Treatment and Payments. (a) Each borrowing by the Borrower from the Lenders hereunder, each payment by the Borrower on account of any commitment fee and any reduction of the Commitments of the Lenders shall be made pro rata according to the respective Term Percentages or Revolving Percentages, as the case may be, of the relevant Lenders.

(b) Each payment (including each prepayment) by the Borrower on account of principal of and interest on the Term Loans shall be made pro rata according to the respective outstanding principal amounts of the Term Loans then held by the Term Lenders. The amount of each principal prepayment of the Term Loans shall be applied to reduce the then remaining installments of the Term Loans pro rata based upon the then remaining principal amounts thereof. Amounts prepaid on account of the Term Loans may not be reborrowed.

(c) Each payment (including each prepayment) by the Borrower on account of principal of and interest on the Revolving Loans shall be made pro rata according to the respective outstanding principal amounts of the Revolving Loans then held by the Revolving Lenders.

(d) All payments (including prepayments) to be made by the Borrower hereunder, whether on account of principal, interest, fees or otherwise, shall be made without setoff or counterclaim and shall be made prior to 12:00 Noon, New York City time, on the due date thereof to the Administrative Agent, for the account of the Lenders, at the Funding Office, in Dollars and in immediately available funds. The Administrative Agent shall distribute such payments to the Lenders promptly upon receipt in like funds as received. If any payment hereunder (other than payments on the Eurodollar Loans) becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day. If any payment on a Eurodollar Loan becomes due and payable on a day other than a Business Day, the maturity thereof shall be extended to the next succeeding Business Day unless the result of such extension would be to extend such payment into another calendar month, in which event such payment shall be made on the immediately preceding Business Day. In the case of any extension of any payment of principal pursuant to the preceding two sentences, interest thereon shall be payable at the then applicable rate during such extension.

(e) Unless the Administrative Agent shall have been notified in writing by any Lender prior to a borrowing that such Lender will not make the amount that would constitute its share of such borrowing available to the Administrative Agent, the Administrative Agent may assume that such Lender is making such amount available to the Administrative Agent, and the Administrative Agent may, in reliance upon such assumption, make available to the Borrower a corresponding amount. If such amount is not made available to the Administrative Agent by the required time on the Borrowing Date

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therefor, such Lender shall pay to the Administrative Agent, on demand, such amount with interest thereon, at a rate equal to the greater of (i) the Federal Funds Effective Rate and (ii) a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, for the period until such Lender makes such amount immediately available to the Administrative Agent. A certificate of the Administrative Agent submitted to any Lender with respect to any amounts owing under this paragraph shall be conclusive in the absence of manifest error. If such Lender's share of such borrowing is not made available to the Administrative Agent by such Lender within three Business Days after such Borrowing Date, the Administrative Agent shall also be entitled to recover such amount with interest thereon at the rate per annum applicable to ABR Loans under the relevant Facility, on demand, from the Borrower.

(f) Unless the Administrative Agent shall have been notified in writing by the Borrower prior to the date of any payment due to be made by the Borrower hereunder that the Borrower will not make such payment to the Administrative Agent, the Administrative Agent may assume that the Borrower is making such payment, and the Administrative Agent may, but shall not be required to, in reliance upon such assumption, make available to the Lenders their respective pro rata shares of a corresponding amount. If such payment is not made to the Administrative Agent by the Borrower within three Business Days after such due date, the Administrative Agent shall be entitled to recover, on demand, from each Lender to which any amount which was made available pursuant to the preceding sentence, such amount with interest thereon at the rate per annum equal to the daily average Federal Funds Effective Rate. Nothing herein shall be deemed to limit the rights of the Administrative Agent or any Lender against the Borrower.

2.16 Requirements of Law. (a) If the adoption of or any change in any Requirement of Law or in the interpretation or application thereof or compliance by any Lender (which shall, for the avoidance of doubt, include any Issuing Lender) with any request or directive (whether or not having the force of law) from any central bank or other Governmental Authority made subsequent to the date hereof:

(i) shall subject any Lender to any tax of any kind whatsoever with respect to this Agreement, any Letter of Credit, any Application or any Eurodollar Loan made by it, or change the basis of taxation of payments to such Lender in respect thereof (except for in each case Non-Excluded Taxes and Other Taxes, which are covered by Section 2.17, changes in the rate or basis of imposition of tax imposed on or measured by the net income of such Lender, franchise taxes in lieu of such net income taxes and branch profits taxes);

(ii) shall impose, modify or hold applicable any reserve, special deposit, compulsory loan or similar requirement against assets held by, deposits or other liabilities in or for the account of, advances, loans or other extensions of credit by, or any other acquisition of funds by, any office of such Lender that is not otherwise included in the determination of the Eurodollar Rate; or

(iii) shall impose on such Lender any other condition affecting this Agreement;

and the result of any of the foregoing is to increase the cost to such Lender, by an amount that such Lender reasonably deems to be material, of making, converting into, continuing or maintaining Eurodollar Loans or issuing or participating in Letters of Credit, or to reduce any amount receivable hereunder in respect thereof, then, in any such case, the Borrower shall promptly pay such Lender upon its demand, any additional amounts necessary to compensate such Lender for such increased cost or reduced amount receivable. If any Lender becomes entitled to claim any additional amounts pursuant to this paragraph, it

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shall promptly notify the Borrower in writing (with a copy to the Administrative Agent) of the event by reason of which it has become so entitled.

(b) If any Lender shall have determined that the adoption of or any change in any Requirement of Law regarding capital adequacy or liquidity requirements or in the interpretation or application thereof or compliance by such Lender or any corporation controlling such Lender with any request or directive regarding capital adequacy or liquidity requirements (whether or not having the force of law) from any Governmental Authority made subsequent to the date hereof shall have the effect of reducing the rate of return on such Lender's or such corporation's capital as a consequence of its obligations hereunder or under or in respect of any Letter of Credit to a level below that which such Lender, or such corporation could have achieved but for such adoption, change or compliance (taking into consideration such Lender's, or such corporation's policies with respect to capital adequacy or liquidity requirements) by an amount reasonably deemed by such Lender to be material, then from time to time, after submission by such Lender or to the Borrower (with a copy to the Administrative Agent) of a written request therefor, the Borrower shall pay to such Lender such additional amount or amounts as will compensate such Lender, or such corporation for such reduction; provided, that the Borrower shall not be required to pay additional amounts to compensate any Lender (i) any Non-Excluded Taxes or Other Taxes, which are covered by Section 2.17 or (ii) any change in the rate or basis of imposition of applicable taxes imposed on or measured by net income, franchise taxes in lieu of such net income taxes and branch profits taxes.

(c) Notwithstanding anything herein to the contrary, (i) all requests, rules, guidelines, requirements and directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or by United States or foreign regulatory authorities, in each case pursuant to Basel III, and (ii) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements and directives thereunder or issued in connection therewith or in implementation thereof shall in each case be deemed to be a change in a Requirement of Law, regardless of the date enacted, adopted, issued or implemented; provided that the protection of this Section 2.16(c) shall be available to each Lender regardless of any possible contention of the invalidity or inapplicability of the law, rule, regulation, guideline or other change or condition which shall have occurred or been imposed, so long as it shall be customary for Lenders affected thereby to comply therewith. No Lender shall be entitled to compensation under this Section 2.16(c) with respect to any date unless it shall have notified the Borrower that it will demand compensation pursuant to this Section 2.16(c) not more than 90 days after the date on which it shall have become aware of such incurred costs or reductions. Notwithstanding any other provision herein, no Lender shall demand compensation pursuant to this Section 2.16(c) if it shall not at the time be the general policy or practice of such Lender to demand such compensation in similar circumstances under comparable provisions of other credit agreements, if any.

(d) A certificate as to any additional amounts payable pursuant to this Section submitted by any Lender to the Borrower (with a copy to the Administrative Agent) shall set forth in reasonable detail the calculation of such amounts and shall be conclusive in the absence of manifest error. Notwithstanding anything to the contrary in this Section, the Borrower shall not be required to compensate a Lender pursuant to this Section for any amounts incurred more than nine months prior to the date that such Lender notifies the Borrower of such Lender's intention to claim compensation therefor; provided that, if the circumstances giving rise to such claim have a retroactive effect, then such nine-month period shall be extended to include the period of such retroactive effect. The obligations of the Borrower pursuant to this Section shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

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2.17 Taxes. (a) All payments made by or on behalf of any Loan Party under this Agreement or any other Loan Document shall be made free and clear of, and without deduction or withholding for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings, now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority, excluding net income taxes, branch profits taxes and franchise taxes (imposed in lieu of net income taxes) imposed on the Administrative Agent or any Lender by the jurisdiction under the laws of which the Administrative Agent or such Lender is organized or as a result of a present or former connection between the Administrative Agent or such Lender and the jurisdiction of the Governmental Authority imposing such tax or any political subdivision or taxing authority thereof or therein (other than any such connection arising solely from the Administrative Agent or such Lender having executed, delivered or performed its obligations or received a payment under, or enforced, this Agreement or any other Loan Document) (such non-excluded taxes, levies, imposts, duties, charges, fees, deductions or withholdings, the “Non-Excluded Taxes”); provided that, if any Non-Excluded Taxes or Other Taxes are required to be withheld from any amounts payable to the Administrative Agent or any Lender, as determined in good faith by the applicable Withholding Agent, (i) such amounts shall be paid to the relevant Governmental Authority in accordance with applicable law and (ii) the amounts so payable by the applicable Loan Party to the Administrative Agent or such Lender shall be increased to the extent necessary to yield to the Administrative Agent or such Lender (after payment of all Non-Excluded Taxes and Other Taxes including any such taxes imposed on amounts payable under this Section) interest or any such other amounts payable hereunder at the rates or in the amounts specified in this Agreement as if such withholding or deduction had not been made, provided further, however, that the Borrower shall not be required to increase any such amounts payable to the Administrative Agent or any Lender with respect to any Non-Excluded Taxes (i) that are attributable to such Lender’s failure to comply with the requirements of paragraph (d), (e) or (f) of this Section or (ii) that are United States withholding taxes resulting from any Requirement of Law in effect (including FATCA) on the date the Administrative Agent or such Lender becomes a party to this Agreement or designates a new lending office, except to the extent that the Administrative Agent or such Lender (or its assignor (if any)) was entitled, immediately prior to such designation of a new lending office or at the time of assignment, as applicable, to receive additional amounts from the Borrower with respect to such Non-Excluded Taxes pursuant to this paragraph.

(b) In addition, the Borrower shall pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) Whenever any Non-Excluded Taxes or Other Taxes are payable by the Borrower, as promptly as possible thereafter the Borrower shall send to the Administrative Agent for its own account or for the account of the relevant Lender, as the case may be, a certified copy of an original official receipt received by the Borrower showing payment thereof. If (i) the Borrower fails to pay any Non-Excluded Taxes or Other Taxes when due to the appropriate taxing authority, (ii) the Borrower fails to remit to the Administrative Agent the required receipts or other required documentary evidence or (iii) any Non-Excluded Taxes or Other Taxes are imposed directly upon the Administrative Agent or any Lender, the Borrower shall indemnify the Administrative Agent and the Lenders for such amounts and any incremental taxes, interest or penalties that may become payable by the Administrative Agent or any Lender as a result of any such failure, in the case of (i) and (ii), or any such direct imposition, in the case of (iii).

(d) Each Lender (or Transferee) that is not a “United States Person” as defined in Section 7701(a)(30) of the Code (a “Non-U.S. Lender”) shall deliver to the Borrower and the Administrative Agent (or, in the case of a Participant, to the Lender from which the related participation shall have been purchased) (i) two copies of U.S. Internal Revenue Service (“IRS”) Form W-8BEN, Form W-8ECI or Form W-8IMY (together with any applicable underlying IRS forms), (ii) in the case of a Non-U.S. Lender claiming exemption from U.S. federal withholding tax under Section 871(h) or 881(c)

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of the Code with respect to payments of “portfolio interest”, a statement substantially in the form of Exhibit F and the applicable IRS Form W-8, or any subsequent versions thereof or successors thereto, properly completed and duly executed by such Non-U.S. Lender claiming complete exemption from, or a reduced rate of, U.S. federal withholding tax on all payments by the Borrower under this Agreement and the other Loan Documents, or (iii) any other form prescribed by applicable requirements of U.S. federal income tax law as a basis for claiming exemption from or a reduction in U.S. federal withholding tax duly completed together with such supplementary documentation as may be prescribed by applicable Requirements of Law to permit the Borrower and the Administrative Agent to determine the withholding or deduction required to be made. Such forms shall be delivered by each Non-U.S. Lender on or before the date it becomes a party to this Agreement (or, in the case of any Participant, on or before the date such Participant purchases the related participation) and from time to time thereafter upon the request of the Borrower or the Administrative Agent. Notwithstanding any other provision of this Section, a Non-U.S. Lender shall not be required to deliver any form pursuant to this Section that such Non-U.S. Lender is not legally able to deliver.

(e) A Lender that is entitled to an exemption from or reduction of non-U.S. withholding tax under the law of the jurisdiction in which the Borrower is located, or any treaty to which such jurisdiction is a party, with respect to payments under this Agreement shall deliver to the Borrower (with a copy to the Administrative Agent), at the time or times prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation prescribed by applicable law as will permit such payments to be made without withholding or at a reduced rate, provided that such Lender is legally entitled to complete, execute and deliver such documentation and in such Lender’s judgment such completion, execution or submission would not materially prejudice the legal or commercial position of such Lender.

(f) The Administrative Agent and each Lender, in each case that is organized under the laws of the United States or a state thereof, shall, on or before the date of any payment by the Borrower under this Agreement or any other Loan Document to, or for the account of, such Administrative Agent or Lender, deliver to the Borrower and the Administrative Agent (or, in the case of a Participant, to the Lender from which the related participation shall have been purchased), two duly completed copies of Internal Revenue Service Form W-9, or successor form, certifying that such Administrative Agent or Lender is a “United States Person” (as defined in Section 7701(a)(30) of the Code) and that such Administrative Agent or Lender is entitled to a complete exemption from United States backup withholding tax.

(g) If the Administrative Agent or any Lender determines, in its sole discretion, that it has received a refund of any Non-Excluded Taxes or Other Taxes as to which it has been indemnified by a Loan Party or with respect to which a Loan Party has paid additional amounts pursuant to this Section 2.17, it shall pay over such refund to such Loan Party (but only to the extent of indemnity payments made, or additional amounts paid, by such Loan Party under this Section 2.17 with respect to the Non-Excluded Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the Administrative Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided, that such Loan Party, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to such Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. This paragraph shall not be construed to require the Administrative Agent or any Lender to make available its tax returns (or any other information relating to its taxes which it deems confidential) to any Loan Party or any other Person.

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(h) Each Lender shall indemnify the Administrative Agent, within 10 days after demand therefor, for the full amount of (i) any taxes, levies, imposts, duties, charges, fees, deductions, withholdings or similar charges imposed by any Governmental Authority that are attributable to such Lender and (ii) any taxes attributable to such Lender's failure to comply with the provisions of Section 10.6(c) relating to the maintenance of a Participant Register, in each case, that are payable or paid by the Administrative Agent, together with all interest, penalties, reasonable costs and expenses arising therefrom or with respect thereto, as determined by the Administrative Agent in good faith, whether or not such taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error; provided that if it is demonstrated to the reasonable satisfaction of the Administrative Agent that any Lender has overpaid in respect of any such amounts due, the Administrative Agent shall reimburse such Lender for such overpaid amount. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (h).

(i) If a payment made to a Lender under any Loan Document would be subject to U.S. Federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this paragraph (i), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(j) Each Lender agrees that if any form or certification it previously delivered under this Section expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(k) For purposes of this Section 2.17, the term "Lender" includes any other Issuing Lender and the term "applicable law" includes FATCA.

(l) The agreements in this Section shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

2.18 Indemnity. The Borrower agrees to indemnify each Lender for, and to hold each Lender harmless from, any loss or expense that such Lender may sustain or incur as a consequence of (a) default by the Borrower in making a borrowing of, conversion into or continuation of Eurodollar Loans after the Borrower has given a notice requesting the same in accordance with the provisions of this Agreement, (b) default by the Borrower in making any prepayment of or conversion from Eurodollar Loans after the Borrower has given a notice thereof in accordance with the provisions of this Agreement or (c) the making of a prepayment of Eurodollar Loans on a day that is not the last day of an Interest Period with respect thereto. Such indemnification may include an amount equal to the excess, if any, of (i) the amount of interest that would have accrued on the amount so prepaid, or not so borrowed, converted or continued, for the period from the date of such prepayment or of such failure to borrow, convert or continue to the last day of such Interest Period (or, in the case of a failure to borrow, convert or

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continue, the Interest Period that would have commenced on the date of such failure) in each case at the applicable rate of interest for such Loans provided for herein (excluding, however, the Applicable Margin included therein, if any) over (ii) the amount of interest (as reasonably determined by such Lender) that would have accrued to such Lender on such amount by placing such amount on deposit for a comparable period with leading banks in the interbank eurodollar market. A certificate setting forth the calculation in reasonable detail as to any amounts payable pursuant to this Section submitted to the Borrower by any Lender shall be conclusive in the absence of manifest error. This covenant shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

2.19 Payments Generally; Pro Rata Treatment; Sharing of Set-offs. If any Lender shall fail to make any payment required to be made by it pursuant to Sections 2.15(e), 2.15(f), 3.4, 3.5 or 9.7, then the Administrative Agent may, in its discretion and notwithstanding any contrary provision hereof, (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender for the benefit of the Administrative Agent or the Issuing Lender to satisfy such Lender's obligations to it under such Section until all such unsatisfied obligations are fully paid, and/or (ii) hold any such amounts in a segregated account as cash collateral for, and application to, any future funding obligations of such Lender under any such Section, in the case of each of clauses (i) and (ii) above, in any order as determined by the Administrative Agent in its discretion.

2.20 Mitigation Obligations; Replacement of Lenders. (a) If any Lender requests compensation under Section 2.16, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.16 or 2.17, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If any Lender requests compensation under Section 2.16, or does not consent to any proposed amendment, supplement, modification, consent, or waiver of this Agreement or any other Loan Document requested by the Borrower which requires the consent of all the Lenders (including such Lender's consent) and which has been consented to by 66<sup>2</sup>/<sub>3</sub>% of the Lenders, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, or if any Lender becomes a Defaulting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 10.6), all its interests, rights and obligations under this Agreement to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that (i) such assignment does not conflict with any Requirement of Law, (ii) no Event of Default shall have occurred and be continuing at the time of such assignment, (iii) the Borrower shall be liable to the assigning Lender under Section 2.18 if any Eurodollar Loan owing to such assigning Lender shall be purchased other than on the last day of the Interest Period relating thereto, (iv) until such time as such assignment shall be consummated, the Borrower shall pay all additional amounts (if any) required pursuant to Section 2.16 or 2.17(a), as the case may be, (v) if the assignee is not already a Lender, the Borrower shall have received the prior written consent of the Administrative Agent (and if a Revolving Commitment is being assigned, the Issuing Lender), which consent shall not unreasonably be withheld, (vi) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in Letters of Credit, accrued interest thereon, accrued fees and all other amounts payable to it hereunder, from the assignee (to the extent of such outstanding principal and

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accrued interest and fees) or the Borrower (in the case of all other amounts), (vi) in the case of any such assignment resulting from a claim for compensation under Section 2.16 or payments required to be made pursuant to Section 2.17, such assignment will result in a reduction in such compensation or payments and (vii) any such assignment shall not be deemed to be a waiver of any rights that the Borrower, the Administrative Agent or any other Lender shall have against the replaced Lender. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

2.21 Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

(a) fees shall cease to accrue on the unfunded portion of the Commitment of such Defaulting Lender pursuant to Section 2.6;

(b) the Commitments of such Defaulting Lender shall not be included in determining whether the Required Lenders have taken or may take any action hereunder (including any consent to any amendment, waiver or other modification pursuant to Section 10.1); provided, that this clause (b) shall not apply to the vote of a Defaulting Lender in the case of an amendment, waiver or other modification requiring the consent of such Lender or each Lender affected thereby;

(c) if any L/C Obligations exist at the time such Lender becomes a Defaulting Lender then:

(i) all or any part of the L/C Obligations of such Defaulting Lender shall be reallocated among the non-Defaulting Lenders in accordance with their respective Aggregate Exposure Percentages but only to the extent the sum of all non-Defaulting Lenders' Aggregate Exposure Percentages plus such Defaulting Lender's L/C Obligations does not exceed the total of all non-Defaulting Lenders' Commitments;

(ii) if the reallocation described in clause (i) above cannot, or can only partially, be effected, the Borrower shall within one Business Day following notice by the Administrative Agent cash collateralize for the benefit of the Issuing Lender only the Borrower's obligations corresponding to such Defaulting Lender's L/C Obligations (after giving effect to any partial reallocation pursuant to clause (i) above) in accordance with the procedures set forth in Section 8.1 for so long as such L/C Obligations are outstanding;

(iii) if the Borrower cash collateralizes any portion of such Defaulting Lender's L/C Obligations pursuant to clause (ii) above, the Borrower shall not be required to pay any fees to such Defaulting Lender pursuant to Section 3.3 with respect to such Defaulting Lender's L/C Obligations during the period such Defaulting Lender's L/C Obligations are cash collateralized;

(iv) if the L/C Obligations of the non-Defaulting Lenders are reallocated pursuant to clause (i) above, then the fees payable to the Lenders pursuant to Section 2.6 and Section 3.3 shall be adjusted in accordance with such non-Defaulting Lenders' Aggregate Exposure Percentages; and

(v) if all or any portion of such Defaulting Lender's L/C Obligations is neither reallocated nor cash collateralized pursuant to clause (i) or (ii) above, then, without prejudice to any rights or remedies of the Issuing Lender or any other Lender hereunder, all Letter of Credit fees payable under Section 3.3 with respect to such Defaulting Lender's L/C

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Obligations shall be payable to the Issuing Lender until and to the extent that such L/C Obligations are reallocated and/or cash collateralized; and

(d) so long as such Lender is a Defaulting Lender, the Issuing Lender shall not be required to issue, amend or increase any Letter of Credit, unless it is satisfied that the related exposure and the Defaulting Lender's then outstanding L/C Obligations will be 100% covered by the Commitments of the non-Defaulting Lenders and/or cash collateral will be provided by the Borrower in accordance with Section 2.21(c), and participating interests in any newly issued or increased Letter of Credit shall be allocated among non-Defaulting Lenders in a manner consistent with Section 2.21(c)(i) (and such Defaulting Lender shall not participate therein).

If (i) a Bankruptcy Event with respect to a Parent of any Lender shall occur following the date hereof and for so long as such event shall continue or (ii) the Issuing Lender has a good faith belief that any Lender has defaulted in fulfilling its obligations under one or more other agreements in which such Lender commits to extend credit, the Issuing Lender shall not be required to issue, amend or increase any Letter of Credit, unless the Issuing Lender, shall have entered into arrangements with the Borrower or such Lender, satisfactory to the Issuing Lender, to defease any risk to it in respect of such Lender hereunder.

In the event that the Administrative Agent, the Borrower and the Issuing Lender each agrees that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then the L/C Obligations of the Lenders shall be readjusted to reflect the inclusion of such Lender's Commitment and on such date such Lender shall purchase at par such of the Loans of the other Lenders as the Administrative Agent shall determine may be necessary in order for such Lender to hold such Loans in accordance with its Aggregate Exposure Percentage.

### SECTION 3. LETTERS OF CREDIT

3.1 L/C Commitment. (a) Subject to the terms and conditions hereof, the Issuing Lender, in reliance on the agreements of the other Revolving Lenders set forth in Section 3.4(a), agrees to issue letters of credit ("Letters of Credit") for the account of the Borrower and its Subsidiaries and with the Borrower as the applicant on any Business Day during the Revolving Commitment Period in such form as may be approved from time to time by the Issuing Lender; provided that the Issuing Lender shall have no obligation to issue any Letter of Credit if, after giving effect to such issuance, (i) the L/C Obligations would exceed the L/C Commitment or (ii) the aggregate amount of the Available Revolving Commitments would be less than zero. Each Letter of Credit shall (i) be denominated in Dollars or in any Designated Foreign Currency and (ii) expire no later than the earlier of (x) the first anniversary of its date of issuance and (y) the date that is five Business Days prior to the Revolving Termination Date, provided that any Letter of Credit with a one-year term may provide for the renewal thereof for additional one-year periods (which shall in no event extend beyond the date referred to in clause (y) above).

(b) The Issuing Lender shall not at any time be obligated to issue any Letter of Credit if such issuance would conflict with, or cause the Issuing Lender or any L/C Participant to exceed any limits imposed by, any applicable Requirement of Law.

3.2 Procedure for Issuance of Letter of Credit. The Borrower may from time to time request that the Issuing Lender issue a Letter of Credit by delivering to the Issuing Lender at its address for notices specified herein an Application therefor, completed to the satisfaction of the Issuing Lender, and such other certificates, documents and other papers and information as the Issuing Lender may request. Upon receipt of any Application, the Issuing Lender will process such Application and the certificates, documents and other papers and information delivered to it in connection therewith in

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accordance with its customary procedures and shall promptly issue the Letter of Credit requested thereby (but in no event shall the Issuing Lender be required to issue any Letter of Credit earlier than three Business Days after its receipt of the Application therefor and all such other certificates, documents and other papers and information relating thereto) by issuing the original of such Letter of Credit to the beneficiary thereof or as otherwise may be agreed to by the Issuing Lender and the Borrower. The Issuing Lender shall furnish a copy of such Letter of Credit to the Borrower promptly following the issuance thereof. The Issuing Lender shall promptly furnish to the Administrative Agent, which shall in turn promptly furnish to the Lenders, notice of the issuance of each Letter of Credit (including the amount thereof).

3.3 Fees and Other Charges. (a) The Borrower will pay a fee on all outstanding Letters of Credit at a per annum rate equal to the Applicable Margin then in effect with respect to Eurodollar Loans under the Revolving Facility, shared ratably among the Revolving Lenders and payable quarterly in arrears on each Fee Payment Date after the issuance date. In addition, the Borrower shall pay to the Issuing Lender for its own account a fronting fee of 0.125% per annum on the undrawn and unexpired amount of each Letter of Credit, payable quarterly in arrears on each Fee Payment Date after the issuance date. Such fees shall be payable in Dollars.

(b) In addition to the foregoing fees, the Borrower shall pay or reimburse the Issuing Lender for such normal and customary costs and expenses as are incurred or charged by the Issuing Lender in issuing, negotiating, effecting payment under, amending or otherwise administering any Letter of Credit.

3.4 L/C Participations. (a) The Issuing Lender irrevocably agrees to grant and hereby grants to each L/C Participant, and, to induce the Issuing Lender to issue Letters of Credit, each L/C Participant irrevocably agrees to accept and purchase and hereby accepts and purchases from the Issuing Lender, on the terms and conditions set forth below, for such L/C Participant's own account and risk an undivided interest equal to such L/C Participant's Revolving Percentage in the Issuing Lender's obligations and rights under and in respect of each Letter of Credit and the amount of each draft paid by the Issuing Lender thereunder. Each L/C Participant agrees with the Issuing Lender that, if a draft is paid under any Letter of Credit for which the Issuing Lender is not reimbursed in full by the Borrower in accordance with the terms of this Agreement (or in the event that any reimbursement received by the Issuing Lender shall be required to be returned by it at any time), such L/C Participant shall pay to the Issuing Lender upon demand (which demand, in the case of any demand made in respect of any draft under a Letter of Credit denominated in any Designated Foreign Currency, shall not be made prior to the date that the amount of such draft shall be converted into Dollars in accordance with Section 3.5) at the Issuing Lender's address for notices specified herein an amount equal to such L/C Participant's Revolving Percentage of the amount of such draft, or any part thereof, that is not so reimbursed (or is so returned). Each L/C Participant's obligation to pay such amount shall be absolute and unconditional and shall not be affected by any circumstance, including (i) any setoff, counterclaim, recoupment, defense or other right that such L/C Participant may have against the Issuing Lender, the Borrower or any other Person for any reason whatsoever, (ii) the occurrence or continuance of a Default or an Event of Default or the failure to satisfy any of the other conditions specified in Section 5, (iii) any adverse change in the condition (financial or otherwise) of the Borrower, (iv) any breach of this Agreement or any other Loan Document by the Borrower, any other Loan Party or any other L/C Participant or (v) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing.

(b) If any amount required to be paid by any L/C Participant to the Issuing Lender pursuant to Section 3.4(a) in respect of any unreimbursed portion of any payment made by the Issuing Lender under any Letter of Credit is paid to the Issuing Lender within three Business Days after the date such payment is due, such L/C Participant shall pay to the Issuing Lender on demand an amount equal to

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the product of (i) such amount, times (ii) the daily average Federal Funds Effective Rate during the period from and including the date such payment is required to the date on which such payment is immediately available to the Issuing Lender, times (iii) a fraction the numerator of which is the number of days that elapse during such period and the denominator of which is 360. If any such amount required to be paid by any L/C Participant pursuant to Section 3.4(a) is not made available to the Issuing Lender by such L/C Participant within three Business Days after the date such payment is due, the Issuing Lender shall be entitled to recover from such L/C Participant, on demand, such amount with interest thereon calculated from such due date at the rate per annum applicable to ABR Loans under the Revolving Facility. A certificate of the Issuing Lender submitted to any L/C Participant with respect to any amounts owing under this Section shall be conclusive in the absence of manifest error.

(c) Whenever, at any time after the Issuing Lender has made payment under any Letter of Credit and has received from any L/C Participant its pro rata share of such payment in accordance with Section 3.4(a), the Issuing Lender receives any payment related to such Letter of Credit (whether directly from the Borrower or otherwise, including proceeds of collateral applied thereto by the Issuing Lender), or any payment of interest on account thereof, the Issuing Lender will distribute to such L/C Participant its pro rata share thereof; provided, however, that in the event that any such payment received by the Issuing Lender shall be required to be returned by the Issuing Lender, such L/C Participant shall return to the Issuing Lender the portion thereof previously distributed by the Issuing Lender to it.

3.5 Reimbursement Obligation of the Borrower. If any draft is paid under any Letter of Credit, the Borrower shall reimburse the Issuing Lender for the amount of (a) the draft so paid and (b) any taxes, fees, charges or other costs or expenses incurred by the Issuing Lender in connection with such payment, not later than 12:00 Noon, New York City time, on (i) the Business Day that the Borrower receives notice of such draft, if such notice is received on such day prior to 10:00 A.M., New York City time, or (ii) if clause (i) above does not apply, the Business Day immediately following the day that the Borrower receives such notice. Each such payment shall be made to the Issuing Lender at its address for notices referred to herein in the currency in which such Letter of Credit is denominated (except that, in the case of any Letter of Credit denominated in any Designated Foreign Currency, upon notice by the Issuing Lender to the Borrower, such payment shall be made in Dollars from and after the date on which the amount of such payment shall have been converted into Dollars at the Spot Rate of Exchange on such date of conversion, which date of conversion may be any Business Day after the Business Day on which such payment is due) and in immediately available funds. Any conversion by the Issuing Lender of any payment to be made in respect of any Letter of Credit denominated in any Designated Foreign Currency into Dollars in accordance with this Section 3.5 shall be conclusive and binding upon the other parties hereto in the absence of manifest error; provided that upon the request of the Borrower, the Issuing Lender shall provide to the Borrower a certificate including reasonably detailed information as to the calculation of such conversion. Interest shall be payable on any such amounts from the date on which the relevant draft is paid until payment in full at the rate set forth in (x) until the Business Day next succeeding the date of the relevant notice, Section 2.12(b) and (y) thereafter, Section 2.12(c); provided that if any such amount is denominated in a Designated Foreign Currency for any period, such interest shall be payable at the rate charged by the Issuing Lender for reimbursement of overdue obligations in such Designated Foreign Currency owing by account parties with similar credit profiles to that of the Borrower; and provided, further, that if any reimbursement is required to be paid in respect of a Letter of Credit denominated in Dollars, and such reimbursement is not made in accordance with this Section 3.5, the Borrower shall be deemed to have requested a Revolving Extension of Credit in an equivalent amount of such owed reimbursement (provided such request would not result in the Total Revolving Extensions of Credit at such time exceeding Total Revolving Commitments) and to the extent so financed, the Borrower's obligation to make such payment shall be discharged and replaced by the resulting Revolving Loan. If the Borrower fails to make such reimbursement when due, the Administrative Agent shall notify

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each Revolving Lender of the applicable disbursement, the payment then due from the Borrower in respect thereof and such Lender's share thereof based on the Revolving Percentages (the "Reimbursement Percentage"). Promptly following receipt of such notice, each Revolving Lender shall pay to the Administrative Agent its Reimbursement Percentage of the payment then due from the Borrower, in the same manner as provided in Section 2.5 hereof with respect to Loans made by such Lender (and Section 2.5 shall apply, mutatis mutandis, to the payment obligations of the relevant Revolving Lenders), and the Administrative Agent shall promptly pay to the applicable Issuing Lender the amounts so received by it from such Lenders.

3.6 Obligations Absolute. The Borrower's obligations under this Section 3 shall be absolute and unconditional under any and all circumstances and irrespective of any setoff, counterclaim or defense to payment that the Borrower may have or have had against the Issuing Lender, any beneficiary of a Letter of Credit or any other Person. The Borrower also agrees with the Issuing Lender that the Issuing Lender shall not be responsible for, and the Borrower's Reimbursement Obligations under Section 3.5 shall not be affected by, among other things, the validity or genuineness of documents or of any endorsements thereon, even though such documents shall in fact prove to be invalid, fraudulent or forged, or any dispute between or among the Borrower and any beneficiary of any Letter of Credit or any other party to which such Letter of Credit may be transferred or any claims whatsoever of the Borrower against any beneficiary of such Letter of Credit or any such transferee. The Issuing Lender shall not be liable for any error, omission, interruption or delay in transmission, dispatch or delivery of any message or advice, however transmitted, in connection with any Letter of Credit, except for errors or omissions found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of the Issuing Lender. The Borrower agrees that any action taken or omitted by the Issuing Lender under or in connection with any Letter of Credit or the related drafts or documents, if done in the absence of gross negligence or willful misconduct, shall be binding on the Borrower and shall not result in any liability of the Issuing Lender to the Borrower.

3.7 Letter of Credit Payments. If any draft shall be presented for payment under any Letter of Credit, the Issuing Lender shall promptly notify the Borrower of the date and amount thereof. The responsibility of the Issuing Lender to the Borrower in connection with any draft presented for payment under any Letter of Credit shall, in addition to any payment obligation expressly provided for in such Letter of Credit, be limited to determining that the documents (including each draft) delivered under such Letter of Credit in connection with such presentment are substantially in conformity with such Letter of Credit.

3.8 Applications. To the extent that any provision of any Application related to any Letter of Credit is inconsistent with the provisions of this Section 3, the provisions of this Section 3 shall apply.

3.9 Existing Letters of Credit. Subject to the terms and conditions hereof, each Existing Letter of Credit that is outstanding on the Closing Date and listed on Schedule 3.9 shall, effective as of the Closing Date and without any further action by the Borrower, be continued as a Letter of Credit hereunder and from and after the Closing Date shall be deemed a Letter of Credit for all purposes hereof and shall be subject to and governed by the terms and conditions hereof and shall cease to be outstanding under the Existing Credit Agreement.

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## SECTION 4. REPRESENTATIONS AND WARRANTIES

To induce the Administrative Agent and the Lenders to enter into this Agreement and to make the Loans and issue or participate in the Letters of Credit, the Borrower hereby represents and warrants to the Administrative Agent and each Lender that:

4.1 Financial Condition. The audited consolidated balance sheets of the Borrower and its consolidated Subsidiaries as at December 31, 2010, December 31, 2011 and December 31, 2012, and the related consolidated statements of operations and of cash flows for the year ended December 31, 2010, the year ended December 31, 2011, and the year ended December 31, 2012, reported on by and accompanied by an unqualified report from KPMG LLP, present fairly, in all material respects, the consolidated financial condition of the Borrower and its consolidated Subsidiaries as at such date, and the consolidated results of its operations and its consolidated cash flows for the respective fiscal periods then ended. All such financial statements, including the related schedules and notes thereto, have been prepared in accordance with GAAP applied consistently throughout the periods involved (except as approved by the aforementioned firm of accountants and disclosed therein). No Group Member has any material Guarantee Obligations, contingent liabilities and liabilities for taxes, or any long-term leases or unusual forward or long-term commitments, including any interest rate or foreign currency swap or exchange transaction or other obligation in respect of derivatives, that are not reflected in the most recent financial statements referred to in this paragraph. During the period from December 31, 2012 to and including the date hereof there has been no Disposition by any Group Member of any material part of its business or property.

4.2 No Change. Since December 31, 2012, there has been no development or event that has had or could reasonably be expected to have a Material Adverse Effect.

4.3 Existence; Compliance with Law. Each Group Member (a) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, (b) has the power and authority, and the legal right, to own and operate its property, to lease the property it operates as lessee and to conduct the business in which it is currently engaged, (c) is duly qualified as a foreign corporation or other organization and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification and (d) is in compliance with all Requirements of Law; except, in each case except clause (a) (only with respect to the Borrower and the Subsidiary Guarantors), to the extent that the failure to comply therewith could not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

4.4 Power; Authorization; Enforceable Obligations. Each Loan Party has the power and authority, and the legal right, to make, deliver and perform the Loan Documents to which it is a party and, in the case of the Borrower, to obtain extensions of credit hereunder. Each Loan Party has taken all necessary organizational action to authorize the execution, delivery and performance of the Loan Documents to which it is a party and, in the case of the Borrower, to authorize the extensions of credit on the terms and conditions of this Agreement. No consent or authorization of, filing with, notice to or other act by or in respect of, any Governmental Authority or any other Person is required in connection with the extensions of credit hereunder or with the execution, delivery, performance, validity or enforceability of this Agreement or any of the Loan Documents. Each Loan Document has been duly executed and delivered on behalf of each Loan Party party thereto. This Agreement constitutes, and each other Loan Document upon execution will constitute, a legal, valid and binding obligation of each Loan Party party thereto, enforceable against each such Loan Party in accordance with its terms, except as enforceability 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).

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4.5 No Legal Bar. The execution, delivery and performance of this Agreement and the other Loan Documents, the issuance of Letters of Credit, the borrowings hereunder and the use of the proceeds thereof will not violate any Requirement of Law or any material Contractual Obligation (only to the extent the violation of such material Contractual Obligation could reasonably be expected to have a Material Adverse Effect) of any Group Member and will not result in, or require, the creation or imposition of any Lien on any of their respective properties or revenues pursuant to any Requirement of Law or any such material Contractual Obligation. No Requirement of Law applicable to the Borrower or any of its Subsidiaries could reasonably be expected to have a Material Adverse Effect.

4.6 Litigation. Except as disclosed on Schedule 4.6 hereto, no litigation, investigation or proceeding of or before any arbitrator or Governmental Authority is pending or, to the knowledge of the Borrower, threatened in writing by or against any Group Member or against any of their respective properties or revenues (a) with respect to any of the Loan Documents or any of the transactions contemplated hereby or thereby, or (b) that could reasonably be expected to have a Material Adverse Effect.

4.7 No Default. No Group Member is in default under or with respect to any of its Contractual Obligations in any respect that could reasonably be expected to have a Material Adverse Effect. No Default or Event of Default has occurred and is continuing.

4.8 Ownership of Property; Liens. Each Group Member has title in fee simple to, or a valid leasehold interest in, all its real property, and good title to, or a valid leasehold interest in, all its other property, and none of such property is subject to any Lien except as permitted by Section 7.3, except as could not reasonably be expected to have a Material Adverse Effect.

4.9 Intellectual Property. Each Group Member owns, or is licensed to use, all Intellectual Property necessary for the conduct of its business as currently conducted, except as would not reasonably be expected to have a Material Adverse Effect. No claim has been asserted and is pending by any Person challenging any Intellectual Property owned by any Group Member, which would reasonably be expected to have any Material Adverse Effect. The conduct of the business by each Group Member does not infringe the rights of any Person, and to its knowledge, each Group Member's Intellectual Property is not being infringed by any Person, except in each case as would not reasonably be expected to have a Material Adverse Effect.

4.10 Taxes. Each Group Member has filed or caused to be filed all Federal, state, and other material tax returns that are required to be filed and has paid all taxes shown to be due and payable on said returns or on any assessments made against it or any of its property and all other taxes, fees or other charges imposed on it or any of its property by any Governmental Authority (other than any the amount or validity of which are currently being contested in good faith by appropriate proceedings and with respect to which reserves in conformity with GAAP have been provided on the books of the relevant Group Member); no tax Lien has been filed (other than for taxes not yet due and payable or being contested in good faith by appropriate proceedings and with respect to which reserves in conformity with GAAP have been provided on the books of the relevant Group Member), and, to the knowledge of the Borrower, other than as disclosed on Schedule 4.10, no material claim is being asserted, with respect to any such tax, fee or other charge.

4.11 Federal Regulations. No part of the proceeds of any Loans, and no other extensions of credit hereunder, will be used (a) for "buying" or "carrying" any "margin stock" within the respective meanings of each of the quoted terms under Regulation U as now and from time to time hereafter in effect for any purpose that violates the provisions of the Regulations of the Board or (b) for any purpose that violates the provisions of the Regulations of the Board. If requested by any Lender or

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the Administrative Agent, the Borrower will furnish to the Administrative Agent and each Lender a statement to the foregoing effect in conformity with the requirements of FR Form G-3 or FR Form U-1, as applicable, referred to in Regulation U.

4.12 Labor Matters. Except as, in the aggregate, could not reasonably be expected to have a Material Adverse Effect: (a) there are no strikes or other labor disputes against any Group Member pending or, to the knowledge of the Borrower, threatened; (b) hours worked by and payment made to employees of each Group Member have not been in violation of the Fair Labor Standards Act or any other applicable Requirement of Law dealing with such matters; and (c) all payments due from any Group Member on account of employee health and welfare insurance have been paid or accrued as a liability on the books of the relevant Group Member.

4.13 ERISA. Neither the Borrower nor any Commonly Controlled Entity has (a) any Single Employer Plan that is in “at risk” status (within the meaning of Section 430 of the Code or Section 303 of ERISA), (b) failed to make a material contribution or material payment to any Single Employer Plan, or made any amendment to any Single Employer Plan, which has resulted in the imposition of a Lien or the posting of a bond or other security under Section 303(k) of ERISA or Section 401(a)(29) of the Code, or (c) incurred, or is reasonably likely to incur, any material liability under Title IV of ERISA.

4.14 Investment Company Act; Other Regulations. No Loan Party is required to register as an “investment company”, or a company “controlled” by an “investment company”, within the meaning of the Investment Company Act of 1940, as amended. No Loan Party is subject to regulation under any Requirement of Law (other than Regulation X of the Board) that limits its ability to incur Indebtedness.

4.15 Subsidiaries. Except as disclosed to the Administrative Agent by the Borrower in writing from time to time after the Closing Date, (a) Schedule 4.15 sets forth the name and jurisdiction of incorporation of each Subsidiary and, as to each such Subsidiary, the percentage of each class of Capital Stock owned by any Loan Party and (b) there are no outstanding subscriptions, options, warrants, calls, rights or other agreements or commitments (other than stock options, stock appreciation rights or restricted stock units granted to employees, officers, consultants or directors or stock issued pursuant to the Borrower’s stock purchase plans to employees, officers, consultants or directors and directors’ qualifying shares) of any nature relating to any Capital Stock of any Subsidiary, except as created by the Loan Documents.

4.16 Use of Proceeds. The proceeds of the Term Loans and Revolving Loans shall be used to repay amounts outstanding under the Existing Credit Agreement, to pay related fees and expenses and for working capital or general corporate purposes. The Letters of Credit shall be used for general corporate purposes.

4.17 Environmental Matters. Except as, in the aggregate, could not reasonably be expected to have a Material Adverse Effect:

(a) each Group Member is, and within the period of all applicable statutes of limitation has been, in compliance with all applicable Environmental Laws;

(b) Materials of Environmental Concern have not been released and are not present under circumstances that could be expected to result in a release at, on, under, in, or about any real property now or formerly owned, leased or operated by the Borrower or at any other location (including, to the knowledge of the Borrower, any location to which Materials of Environmental Concern have been sent

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for re-use or recycling or for treatment, storage, or disposal) which could reasonably be expected to give rise to liability of any Group Member under any applicable Environmental Law;

(c) there is no judicial, administrative, or arbitral proceeding (including any notice of violation or alleged violation) under or relating to any Environmental Law to which any Group Member is, or to the knowledge of the Borrower will be, named as a party that is pending or, to the knowledge of the Borrower, threatened;

(d) no Group Member has received any written request for information, or been notified that it is a potentially responsible party under or relating to the federal Comprehensive Environmental Response, Compensation, and Liability Act or any similar Environmental Law, or with respect to any Materials of Environmental Concern;

(e) no Group Member has entered into or agreed to any consent decree, order, or settlement or other agreement, nor is subject to any judgment, decree, or order or other agreement, in any judicial, administrative, arbitral, or other forum, relating to compliance with or liability under any Environmental Law; and

(f) no Group Member has entered into any agreement assuming any liabilities of any other Person under or related to any Environmental Law.

4.18 Accuracy of Information, etc. No statement or information contained in this Agreement, any other Loan Document, the Confidential Information Memorandum or any other document, certificate or written statement furnished by or on behalf of any Loan Party to the Administrative Agent or the Lenders, or any of them, for use in connection with the transactions contemplated by this Agreement or the other Loan Documents, taken as a whole, contained as of the date such statement, information, document or certificate was so furnished (or, in the case of the Confidential Information Memorandum, as of the date of this Agreement), any untrue statement of a material fact or omitted to state a material fact necessary to make the statements contained herein or therein not misleading. The projections and pro forma financial information contained in the materials referenced above are based upon good faith estimates and assumptions believed by management of the Borrower to be reasonable at the time made, it being recognized by the Lenders that such financial information as it relates to future events is not to be viewed as fact and that actual results during the period or periods covered by such financial information may differ from the projected results set forth therein by a material amount. There is no fact known to any Loan Party that could reasonably be expected to have a Material Adverse Effect that has not been expressly disclosed herein (including the Schedules hereto), in the other Loan Documents, in the Confidential Information Memorandum or in any other documents, certificates and statements furnished to the Administrative Agent and the Lenders for use in connection with the transactions contemplated hereby and by the other Loan Documents.

4.19 Solvency. Each Loan Party is, and after giving effect to the transactions contemplated hereby and the incurrence of all Indebtedness and obligations being incurred in connection herewith and therewith will be and will continue to be, Solvent.

## SECTION 5. CONDITIONS PRECEDENT

5.1 Conditions to Initial Extension of Credit. The agreement of each Lender to make the initial extension of credit requested to be made by it is subject to the satisfaction, prior to or concurrently with the making of such extension of credit on the Closing Date, of the following conditions precedent:

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(a) Credit Agreement; Guarantee. The Administrative Agent shall have received (i) this Agreement, executed and delivered by the Administrative Agent, the Borrower and each Person listed on Schedule 1.1A and (ii) the Guarantee, executed and delivered by each Subsidiary Guarantor.

(b) Financial Statements. The Lenders shall have received (i) audited consolidated financial statements of the Borrower and its consolidated Subsidiaries for the 2010, 2011 and 2012 fiscal years and (ii) unaudited interim consolidated financial statements for each fiscal quarter ended after the date of the latest applicable financial statements delivered pursuant to clause (i) of this paragraph as to which such financial statements are available, and such financial statements shall not, in the reasonable judgment of the Lenders, reflect any material adverse change in the consolidated financial condition of the Borrower and its consolidated Subsidiaries, as reflected in the financial statements or projections contained in the Confidential Information Memorandum.

(c) Approvals. All governmental and third party approvals necessary or, in the reasonable discretion of the Administrative Agent, advisable in connection with the continuing operations of the Group Members and the transactions contemplated hereby shall have been obtained and be in full force and effect, and all applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain, prevent or otherwise impose adverse conditions on the financing contemplated hereby.

(d) Fees. The Lenders, the Administrative Agent and the Arrangers shall have received all fees required to be paid, and all expenses for which invoices have been presented (including the reasonable fees and expenses of legal counsel), on or before the Closing Date. All such amounts will be paid with proceeds of Loans made on the Closing Date and will be reflected in the funding instructions given by the Borrower to the Administrative Agent on or before the Closing Date.

(e) Closing Certificate; Certified Certificate of Incorporation; Good Standing Certificates. The Administrative Agent shall have received (i) a certificate of each Loan Party, dated the Closing Date, substantially in the form of Exhibit C, with appropriate insertions and attachments, including the certificate of incorporation of each Loan Party that is a corporation certified by the relevant authority of the jurisdiction of organization of such Loan Party, and (ii) a long form good standing certificate for each Loan Party from its jurisdiction of organization.

(f) Legal Opinions. The Administrative Agent shall have received the legal opinion of Sullivan & Cromwell LLP, counsel to the Borrower and its Subsidiaries, substantially in the form of Exhibit E.

(g) Existing Credit Agreement. The Administrative Agent shall have received satisfactory evidence that amounts owing by the Borrower under the Existing Credit Agreement shall have been paid in full.

(h) Projections. The Lenders shall have received satisfactory projections through the 2018 fiscal year.

(i) KYC. The Administrative Agent and the Lenders shall have received all documentation and other information about the Borrower and the other Loan Parties as has been reasonably requested at least five Business Days prior to the Closing Date that they reasonably determine is required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the PATRIOT Act.

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5.2 Conditions to Each Extension of Credit. The agreement of each Lender to make any extension of credit requested to be made by it on any date (including its initial extension of credit) is subject to the satisfaction of the following conditions precedent:

(a) Representations and Warranties. Each of the representations and warranties made by any Loan Party in or pursuant to the Loan Documents shall be true and correct on and as of such date as if made on and as of such date unless such representation relates solely to an earlier date, in which case such representation shall be true and correct as of such date.

(b) No Default. No Default or Event of Default shall have occurred and be continuing on such date or after giving effect to the extensions of credit requested to be made on such date.

Each borrowing by and issuance of a Letter of Credit on behalf of the Borrower hereunder shall constitute a representation and warranty by the Borrower as of the date of such extension of credit that the conditions contained in this Section 5.2 have been satisfied.

## SECTION 6. AFFIRMATIVE COVENANTS

The Borrower hereby agrees that, so long as the Commitments remain in effect, any Letter of Credit remains outstanding or any Loan or other amount is owing to any Lender or the Administrative Agent hereunder, the Borrower shall and shall cause each of its Subsidiaries to:

6.1 Financial Statements. Furnish to the Administrative Agent and each Lender:

(a) as soon as available, but in any event (i) within 90 days after the end of each fiscal year of the Borrower or (ii) if the Borrower has been granted an extension by the Securities and Exchange Commission permitting the late filing by the Borrower of any annual report on form 10-K the earlier of (x) 120 days after the end of each fiscal year of the Borrower or (y) the last day of any such extension, a copy of the audited consolidated balance sheet of the Borrower and its consolidated Subsidiaries as at the end of such year and the related audited consolidated statements of operations and of cash flows for such year, setting forth in each case in comparative form the figures for the previous year, reported on without a “going concern” or like qualification or exception, or qualification arising out of the scope of the audit, by KPMG LLP or other independent certified public accountants of nationally recognized standing; and

(b) as soon as available, but in any event (i) not later than 45 days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower or (ii) if the Borrower has been granted an extension by the Securities and Exchange Commission permitting the late filing by the Borrower of any quarterly report on form 10-Q the earlier of (x) 60 days after the end of the relevant fiscal quarter or (y) the last day of any such extension, the unaudited consolidated balance sheet of the Borrower and its consolidated Subsidiaries as at the end of such quarter and the related unaudited consolidated condensed statements of operations and of cash flows for such quarter and the portion of the fiscal year through the end of such quarter, setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous year, certified by a Responsible Officer as being fairly stated in all material respects (subject to normal year-end audit adjustments).

All such financial statements shall be complete and correct in all material respects and shall be prepared in reasonable detail and in accordance with GAAP applied (except as approved by such accountants or officer, as the case may be, and disclosed in reasonable detail therein and except, in the case of unaudited financials, for the absence of footnotes) consistently throughout the periods reflected therein and with

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prior periods. Reports or financial information required to be delivered pursuant to this Section 6.1 (to the extent any such financial statements, reports, proxy statements or other materials are included in materials otherwise filed with the SEC) may be delivered electronically and if so, shall be deemed to have been delivered on the date on which the Borrower gives notice to the Administrative Agent (who shall then give notice to the Lenders) that the Borrower has filed such report or financial information through the SEC's Electronic Data Gathering, Analysis and Retrieval System or posted such report or financial information or provides a link thereto on the Borrower's website on the internet. Notwithstanding the foregoing, the Borrower shall deliver paper copies of any report or financial statement referred to in this Section 6.1 to any Lender if the Administrative Agent, on behalf and upon the reasonable request of such Lender, requests the Borrower to furnish such paper copies.

6.2 Certificates; Other Information. Furnish to the Administrative Agent and each Lender (or, in the case of clause (f), to the relevant Lender):

(a) concurrently with the delivery of the financial statements referred to in Section 6.1(a), a certificate of the independent certified public accountants reporting on such financial statements stating that in making the examination necessary therefor no knowledge was obtained of any Default or Event of Default, except as specified in such certificate (it being understood that such certificate shall be limited to the items that independent certified public accountants are permitted to cover in such certificates pursuant to their professional standards and customs of the profession);

(b) concurrently with the delivery of any financial statements pursuant to Section 6.1, (i) a certificate of a Responsible Officer stating that, to the best of such Responsible Officer's knowledge, no Default or Event of Default has occurred and is continuing, except as specified in such certificate and (ii) a Compliance Certificate containing all information and calculations necessary for determining compliance by each Group Member with the provisions of this Agreement referred to therein as of the last day of the fiscal quarter or fiscal year of the Borrower, as the case may be;

(c) as soon as available, and in any event no later than 60 days after the end of each fiscal year of the Borrower, a projected consolidated balance sheet of the Borrower and its Subsidiaries as of the end of the following fiscal year, the related consolidated statements of projected cash flow, projected changes in financial position and projected income and a description of the underlying assumptions applicable thereto), and, as soon as available, significant revisions, if any, of projections with respect to such fiscal year (collectively, the "Projections"), which Projections shall in each case be accompanied by a certificate of a Responsible Officer stating that such Projections are based on reasonable estimates, information and assumptions and that such Responsible Officer has no reason to believe that such Projections are incorrect or misleading in any material respect;

(d) within 45 days after the end of each fiscal quarter of the Borrower other than the last fiscal quarter of the Borrower's fiscal year, and 90 days after the end of the Borrower's fiscal year, a narrative discussion and analysis of the financial condition and results of operations of the Borrower and its Subsidiaries for such fiscal quarter and for the period from the beginning of the then current fiscal year to the end of such fiscal quarter, as compared to the portion of the Projections covering such periods and to the comparable periods of the previous year; provided, that this requirement shall be deemed satisfied on delivery of the Borrower's 10-Q or 10-K, as applicable, which is in compliance with the Securities Exchange Act of 1934, as amended, and Regulation S - X (which may be delivered in the same manner provided for in Section 6.1);

(e) within five days after the same are sent, copies of all financial statements and reports that the Borrower sends to the holders of any class of its debt securities or public equity securities, within five days after the same are received, copies of all correspondence received by the Borrower from

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the SEC, and, within five days after the same are filed, copies of all financial statements and reports that the Borrower may make to, or file with, the SEC (which may be delivered in the same manner provided for in Section 6.1); and

(f) promptly, such additional financial and other information as any Lender may from time to time reasonably request.

6.3 Payment of Obligations. Pay, discharge or otherwise satisfy at or before maturity or before they become delinquent, as the case may be, all its material obligations (including taxes) of whatever nature, except where the amount or validity thereof is currently being contested in good faith by appropriate proceedings and reserves in conformity with GAAP with respect thereto have been provided on the books of the relevant Group Member.

6.4 Maintenance of Existence; Compliance. (a)(i) Preserve, renew and keep in full force and effect its organizational existence and (ii) take all reasonable action to maintain all rights, privileges and franchises necessary or desirable in the normal conduct of its business, except, in each case, as otherwise permitted by Section 7.4 and except, in the case of clause (ii) above, to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; and (b) comply with all Contractual Obligations and Requirements of Law except to the extent that failure to comply therewith could not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

6.5 Maintenance of Property; Insurance. (a) Keep all material property necessary in the operation of its business in good working order and condition, ordinary wear and tear and casualty excepted, except where the failure to do so could not reasonably be expected to result in a Material Adverse Effect and (b) maintain with reputable insurance companies that are financially sound at the time such insurance is purchased insurance on all its property in at least such amounts and against at least such risks as are customarily insured against in the same general area by companies engaged in the same or a similar business.

6.6 Inspection of Property; Books and Records; Discussions. (a) Keep proper books of records and accounts in which true and correct entries in conformity with GAAP and all Requirements of Law shall be made of all dealings and transactions in relation to its business and activities from which financial statements in conformity with GAAP can be prepared and (b) following reasonable advance notice, permit representatives of the Administrative Agent and any Lender to visit and inspect any of its properties and examine and make abstracts from any of its books and records at any reasonable time and as often as may reasonably be desired and to discuss the business, operations, properties and financial and other condition of the Group Members with officers and employees of the Group Members and with their independent certified public accountants.

6.7 Notices. Promptly give notice to the Administrative Agent and each Lender of:

(a) the occurrence of any Default or Event of Default;

(b) any (i) default under any material Contractual Obligation of any Group Member or (ii) litigation, investigation or proceeding that may exist at any time between any Group Member and any Governmental Authority, that in either case, if not cured or if adversely determined, as the case may be, would reasonably be expected to have a Material Adverse Effect;

(c) any litigation or proceeding affecting any Group Member (i) in which the amount involved is \$10,000,000 or more and not covered by insurance, (ii) in which injunctive or similar relief is sought or (iii) which relates to any Loan Document;

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(d) the following events, as soon as possible and in any event within 30 days after the Borrower knows or has reason to know thereof: (i) the occurrence of any Reportable Event with respect to any Plan; a failure to make any required contribution to a Plan, a determination that any Single Employer Plan is in “at risk” status, or a determination that any Multiemployer Plan is in “endangered” or “critical” status, and in each case that could reasonably be expected to result in a Material Adverse Effect, the creation of any Lien in favor of the PBGC or a Plan; or any withdrawal from, or the termination, Reorganization or Insolvency of, any Multiemployer Plan, or (ii) the institution of proceedings or the taking of any other action by the PBGC or the Borrower or any Commonly Controlled Entity or any Multiemployer Plan with respect to the withdrawal from, or the termination, Reorganization or Insolvency of, any Plan that is subject to Title IV of ERISA; and

(e) any development or event that has had or would reasonably be expected to have a Material Adverse Effect.

Each notice pursuant to this Section 6.7 shall be accompanied by a statement of a Responsible Officer setting forth details of the occurrence referred to therein and stating what action the relevant Group Member proposes to take with respect thereto.

6.8 Environmental Laws. (a) Comply with, and ensure compliance by all tenants and subtenants, if any, with, all applicable Environmental Laws, and obtain and comply with and maintain, and ensure that all tenants and subtenants obtain and comply with and maintain, any and all licenses, approvals, notifications, registrations or permits required by applicable Environmental Laws. For purposes of this Section 6.8(a), noncompliance by the Borrower with any applicable Environmental Law shall be deemed not to constitute a breach of this covenant provided that, upon learning of any actual or suspected noncompliance, the Borrower shall promptly undertake all reasonable efforts to achieve compliance, and provided further that, in any case, such non-compliance, and any other noncompliance with Environmental Law, individually or in the aggregate, could not reasonably be expected to give rise to a Material Adverse Effect.

(b) Conduct and complete all investigations, studies, sampling and testing, and all remedial, removal and other actions required by a Governmental Authority to be conducted by a Group Member under Environmental Laws or any other Requirement of Law and promptly comply with all orders and directives of all Governmental Authorities regarding Environmental Laws, other than such orders and directives as to which an appeal has been timely and properly taken in good faith, and provided that the pendency of any and all such appeals could not reasonably be expected to give rise to a Material Adverse Effect.

6.9 Additional Subsidiaries. With respect to any new Material Subsidiary (other than a Foreign Subsidiary) created or acquired after the Closing Date by any Group Member (which, for the purposes of this Section 6.10, shall include any existing Material Subsidiary that ceases to be a Foreign Subsidiary), within 30 days (or such longer period agreed to by the Administrative Agent in its sole discretion, but in no event longer than 90 days) (i) cause such new Material Subsidiary (A) to become a party to the Guarantee and (B) to deliver to the Administrative Agent a certificate of such Material Subsidiary, substantially in the form of Exhibit C, with appropriate insertions and attachments, and (ii) if requested by the Administrative Agent, deliver to the Administrative Agent legal opinions relating to the matters described above, which opinions shall be in form and substance, reasonably satisfactory to the Administrative Agent.

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## SECTION 7. NEGATIVE COVENANTS

The Borrower hereby agrees that, so long as the Commitments remain in effect, any Letter of Credit remains outstanding or any Loan or other amount is owing to any Lender or the Administrative Agent hereunder, the Borrower shall not, and shall not permit any of its Subsidiaries to, directly or indirectly:

7.1 Financial Condition Covenants. (a) Consolidated Leverage Ratio. Permit the Consolidated Leverage Ratio, calculated as at the end of any fiscal quarter for the period of four consecutive fiscal quarters of the Borrower then ended, to exceed 3.00 to 1.00; or

(b) Consolidated Interest Expense Ratio. Permit the Consolidated Interest Expense Ratio, calculated as at the end of such fiscal quarter for the period of four consecutive fiscal quarters of the Borrower then ended, to be less than 3.50 to 1.00.

Each of the Consolidated Leverage Ratio and Consolidated Interest Expense Ratio shall be calculated for purposes of this Section 7.1 on a Pro Forma Basis.

7.2 Indebtedness. Create, issue, incur, assume, become liable in respect of or suffer to exist any Indebtedness, except:

(a) Indebtedness of any Loan Party pursuant to any Loan Document;

(b) Indebtedness of the Borrower to any Subsidiary and of any Subsidiary to the Borrower or any other Subsidiary; provided that Indebtedness of any Subsidiary that is not a Wholly Owned Subsidiary Guarantor to the Borrower or any Wholly Owned Subsidiary Guarantor shall be subject to Section 7.8(g);

(c) Guarantee Obligations (i) incurred in the ordinary course of business by the Borrower or any of its Subsidiaries of obligations of the Borrower or any Subsidiary, (ii) incurred in the ordinary course of business in respect of obligations of (or to) suppliers, customers, franchisees, lessors and licensees, and (iii) otherwise constituting an Investment permitted by Section 7.8;

(d) Indebtedness outstanding on the date hereof and listed on Schedule 7.2(d) and any refinancings, refundings, renewals or extensions thereof (including any associated fees, expenses and accrued but unpaid interest);

(e) Indebtedness (including, without limitation, Capital Lease Obligations, industrial development or similar bonds, or tax-advantaged governmental or quasi-governmental financings) and purchase money obligations (including obligations in respect of mortgage or other similar financings) to finance the purchase, repair or improvement of fixed or capital assets secured by Liens permitted by Section 7.3(g) in an aggregate principal amount not to exceed, as at the date of any incurrence thereof, 5.0% of the total assets of the Borrower and its Subsidiaries as at the end of the fiscal quarter most recently ended at or prior to such time and for which financial statements are available, calculated on a Pro Forma Basis;

(f) Indebtedness of the Borrower or any Subsidiary in respect of (i) standby or performance letters of credit, surety bonds, security deposits or other performance guarantees; provided that the aggregate amount of Indebtedness permitted by this clause (i) shall not at any time exceed, at the time of any incurrence thereof, the greater of (A) \$75,000,000 and (B) 25.0% of Consolidated EBITDA

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for the period of four consecutive fiscal quarters most recently ended at or prior to such time and for which financial statements are available, calculated on a Pro Forma Basis; and (ii) trade letters of credit;

(g) Indebtedness of any Person that becomes a Subsidiary after the date hereof and any refinancing thereof; provided that such Indebtedness exists at the time such Person becomes a Subsidiary and is not created in contemplation of or in connection with such Person becoming a Subsidiary;

(h) additional Indebtedness of the Borrower or any of its Subsidiaries in an aggregate principal amount (for the Borrower and all Subsidiaries) not to exceed at any one time outstanding the greater of (A) \$75,000,000 and (B) 40.0% of Consolidated EBITDA for the period of four consecutive fiscal quarters most recently ended at or prior to such time and for which financial statements are available, calculated on a Pro Forma Basis;

(i) Indebtedness incurred by the Borrower or any of its Subsidiaries in respect of bank guarantees issued in the ordinary course of business consistent with past practice, 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; provided that any reimbursement obligations in respect thereof are reimbursed within 30 days following the due date thereof;

(j) (i) Indebtedness in respect of netting services, overdraft protections, automatic clearinghouse arrangements and similar arrangements in each case in connection with deposit accounts and (ii) Indebtedness arising from the honoring of a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business; provided that any such Indebtedness is extinguished within 30 days of its incurrence;

(k) customer deposits and advance payments received in the ordinary course of business from customers for goods and services purchased in the ordinary course of business;

(l) Indebtedness consisting of promissory notes issued by any Loan Party to current or former officers, directors and employees, their respective estates, spouses or former spouses to finance the purchase or redemption of equity interests of the Borrower permitted by Section 7.6;

(m) Indebtedness in respect of hedging obligations (to the extent constituting Indebtedness) incurred in the ordinary course of business and not for speculative purposes;

(n) Indebtedness consisting of obligations of the Borrower or its Subsidiaries under deferred consideration or other similar arrangements incurred by such Person in connection with Permitted Acquisitions and any other Investments permitted hereunder;

(o) Permitted Subordinated Debt and Permitted Senior Unsecured Debt; provided that the Borrower shall be in pro forma compliance with the covenants set forth in Section 7.1 after giving effect to the incurrence of any such Permitted Subordinated Debt or such Permitted Senior Unsecured Debt and any refinancings or repayment of Indebtedness;

(p) Indebtedness of Foreign Subsidiaries (and renewals, refinancing and extensions thereof) in an aggregate amount at any time outstanding not to exceed \$10,000,000; and

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(q) For the purposes of determining compliance with, and the outstanding principal amount of Indebtedness incurred pursuant to and in compliance with, this Section 7.2, in the event that Indebtedness meets the criteria of more than one of the types of Indebtedness described in this Section 7.2, the Borrower, in its sole discretion, shall classify, and may from time to time reclassify, such item of Indebtedness and only be required to include the amount and type of such Indebtedness in one of the clauses of this Section 7.2.

7.3 Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, whether now owned or hereafter acquired, except:

(a) Liens for taxes, assessments or governmental charges not yet due or the nonpayment of which in the aggregate would not reasonably be expected to have a Material Adverse Effect or that are being contested in good faith by appropriate proceedings, provided that adequate reserves (in the good faith judgment of the management of the Borrower) with respect thereto are maintained on the books of the Borrower or its Subsidiaries, as the case may be, in conformity with GAAP;

(b) statutory or common law Liens of landlords, carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business that are not overdue for a period of more than 60 days or that are being contested in good faith by appropriate proceedings;

(c) pledges or deposits in the ordinary course of business (i) in connection with workers' compensation, unemployment insurance and other social security legislation and (ii) securing liability for reimbursement or indemnification obligations of (including obligations in respect of bank guarantees issued for the account of Foreign Subsidiaries) insurance carriers providing property, casualty or liability insurance to the Borrower or any of its Subsidiaries;

(d) deposits to secure the performance of bids, trade contracts, governmental contracts (other than for borrowed money), leases, statutory obligations, surety, customs and appeal bonds, performance bonds and other obligations of a like nature (including those required or requested by any Governmental Authority) incurred in the ordinary course of business, and earnest money deposits to secure obligations under purchase agreements;

(e) leases, subleases, easements, rights-of-way, restrictions (including zoning restrictions) and other similar encumbrances and minor title defects incurred in the ordinary course of business that do not in any case materially interfere with the ordinary conduct of the business of the Borrower or any of its Subsidiaries;

(f) Liens in existence on the date hereof listed on Schedule 7.3(f), securing Indebtedness permitted by Section 7.2(d), or the renewal, modification, replacement, refinancing, extension or refunding of such Indebtedness, provided that (i) no such Lien is spread to cover any additional property after the Closing Date 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 7.2(d), and (B) proceeds and products thereof and (ii) the renewal, modification, replacement, refinancing, extension or refunding of the obligations secured or benefited by such Liens, to the extent constituting Indebtedness, is permitted by Section 7.2(d);

(g) Liens securing Indebtedness of the Borrower or any other Subsidiary incurred pursuant to Section 7.2(e) to finance the acquisition of fixed or capital assets, provided that (i) such Liens shall be created within 90 days after the acquisition, repair, replacement or improvement of such fixed or

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capital assets, (ii) such Liens (other than in the case of Liens securing industrial development or similar bonds, or tax-advantaged governmental or quasi-governmental financings, in which case Liens may encumber such property as may be permitted under the terms of such financings) do not at any time encumber any property other than the property financed by such Indebtedness, replacements, additions and accessions thereto and the proceeds thereof and (iii) the amount of Indebtedness secured thereby is not increased;

(h) any Lien existing on any property or asset prior to the acquisition thereof by the Borrower or any Subsidiary or existing on any property or asset of any Person that becomes a Subsidiary after the date hereof prior to the time such Person becomes a Subsidiary; provided that (i) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Subsidiary, as the case may be, (ii) such Lien shall not apply to any other property or assets of the Borrower or any Subsidiary and (iii) such Lien shall secure only those obligations which it secures on the date of such acquisition or the date such Person becomes a Subsidiary, as the case may be, and refinancings, extensions, renewals and replacements thereof not to exceed the outstanding principal amount thereof together with associated fees, expenses and premium and accrued but unpaid interest;

(i) any judgment Lien not constituting an Event of Default under Section 8.1(h);

(j) any interest or title of a licensor or sublicensor of Intellectual Property or any lessor or sublessor under any license or sublicense agreement (including software and other technology licenses) or lease or sublease entered into by the Borrower or any other Subsidiary in the ordinary course of its business;

(k) Liens not otherwise permitted by this Section so long as the aggregate outstanding principal amount of the obligations secured thereby does not exceed \$30,000,000 at any one time;

(l) Liens granted by a Foreign Subsidiary (i) to the Borrower or any other Subsidiary to secure Indebtedness owed by such Foreign Subsidiary to the Borrower or such other Subsidiary and (ii) in respect of Indebtedness that was incurred in connection with the acquisition of such Foreign Subsidiary pursuant to a Permitted Acquisition in an aggregate principal amount not to exceed \$50,000,000 at any one time outstanding, and renewals, refinancings and extensions thereof;

(m) Liens arising from precautionary UCC (or other similar recording or notice statutes) financing statement filings regarding operating leases permitted pursuant to this Agreement;

(n) Liens in favor of a banking or other financial institution arising as a matter of law or under customary general terms and conditions encumbering deposits (including the right of set-off) incurred in the ordinary course of business or arising pursuant to such banking institutions' general terms and conditions;

(o) Liens (i) on cash advances in favor of the seller of any property to be acquired in an Investment permitted pursuant to Section 7.8, or (ii) consisting of an agreement to Dispose of any property in a Disposition permitted by Section 7.5, 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;

(p) Liens on property of any Foreign Subsidiary securing Indebtedness of such Foreign Subsidiary to the extent such Indebtedness is permitted hereunder;

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(q) Liens on cash or Cash Equivalents securing reimbursement obligations of the Borrower under letters of credit in an aggregate amount of all such cash and Cash Equivalents not to exceed \$50,000,000; and

(r) for the purposes of determining compliance with this Section 7.3, in the event that any Lien meets the criteria of more than one of the types of Liens described in this Section 7.3, the Borrower, in its sole discretion, shall classify, and may from time to time reclassify, such Lien and only be required to include the amount and type of such Lien in one of the clauses of this Section 7.3.

7.4 Fundamental Changes. Enter into any merger, consolidation or amalgamation, or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution), or Dispose of all or substantially all of its property or business, except that the following are permitted (collectively, "Permitted Acquisitions"):

(a) any Person may be merged, amalgamated or consolidated with or into the Borrower (provided that the Borrower shall be the continuing or surviving corporation) or with or into any Wholly Owned Subsidiary Guarantor (provided that the Wholly Owned Subsidiary Guarantor shall be the continuing or surviving corporation or the surviving Person shall expressly assume the obligations of the Wholly Owned Subsidiary Guarantor pursuant to documents reasonably acceptable to the Administrative Agent); provided that any such merger involving a Person that is not a Subsidiary immediately prior to such merger shall not be permitted unless also permitted by Section 7.8(i); provided further, that prior to consummating any merger pursuant to this clause (a) involving a Person that is not a Subsidiary, the Borrower will deliver to the Administrative Agent a certificate of a Responsible Officer demonstrating compliance immediately following such merger, on a pro forma basis giving effect to such merger, with Section 7.1;

(b) subject to Section 7.4(a) hereof, any Subsidiary may be merged or consolidated with or into any other Subsidiary;

(c) (i) any Subsidiary may liquidate or dissolve or any Subsidiary may change its legal form if the Borrower determines in good faith that such action is in the best interests of the Borrower, and (ii) any Subsidiary may liquidate or dissolve if all or substantially all of its assets are transferred to the Borrower or a Subsidiary, it being understood that in the case of any dissolution of a Subsidiary that is a Subsidiary Guarantor, such Subsidiary shall at or before the time of such dissolution transfer its assets to another Subsidiary that is a Subsidiary Guarantor unless such Disposition of assets is permitted hereunder; and in the case of any change in legal form, a Subsidiary that is a Subsidiary Guarantor will remain a Subsidiary Guarantor unless such Subsidiary Guarantor is otherwise permitted to cease being a Subsidiary Guarantor hereunder;

(d) (i) any Subsidiary of the Borrower may Dispose of any or all of its assets to the Borrower or another Subsidiary (upon voluntary liquidation or otherwise), provided that if the transferor in such a transaction is a Subsidiary Guarantor, then (A) the transferee must either be the Borrower or a Subsidiary Guarantor and (B) to the extent constituting an Investment, such Investment must be a permitted Investment in accordance with Section 7.8, and (ii) the Borrower or any Subsidiary of the Borrower may Dispose of any or all of its assets pursuant to a Disposition permitted by Section 7.5; and

(e) the Borrower or any Subsidiary may make any Investment expressly permitted by Section 7.8 structured as a merger, consolidation or amalgamation.

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7.5 Disposition of Property. Dispose of any of its property, whether now owned or hereafter acquired, or, in the case of any Subsidiary, issue or sell any shares of such Subsidiary's Capital Stock to any Person, except:

(a) Dispositions of obsolete, surplus or worn out 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 the Borrower and its Subsidiaries (including the abandonment or other Disposition of Intellectual Property that is, in the reasonable business judgment of the Borrower and its Subsidiaries, no longer material to the conduct of the business of the Loan Parties taken as a whole);

(b) the sale, transfer or lease of any assets in the ordinary course of business;

(c) Dispositions permitted by Section 7.4;

(d) the sale, contribution or issuance of any Subsidiary's Capital Stock to the Borrower or any Subsidiary;

(e) Dispositions by the Borrower to any Subsidiary and by any Subsidiary to the Borrower or any other Subsidiary on reasonable terms;

(f) Dispositions constituting the making or liquidating of Investments permitted by Section 7.8;

(g) Dispositions constituting the making of a Restricted Payment permitted by Section 7.6;

(h) Dispositions of assets to the extent that (i) such assets are exchanged for credit against the purchase price of similar replacement assets or (ii) the proceeds of such Dispositions are promptly applied to the purchase price of such replacement assets;

(i) Dispositions of accounts receivable in connection with the collection or compromise thereof;

(j) leases, subleases, licenses or sublicenses of property (including Intellectual Property) on customary terms in the ordinary course of business and which do not materially interfere with the business of the Borrower and its Subsidiaries; and

(k) the Disposition of other property having a fair market value not to exceed 7.5% of the total assets in the aggregate for any fiscal year of the Borrower, calculated on a Pro Forma Basis.

7.6 Restricted Payments. Declare or pay any dividend (other than dividends payable solely in common stock or similar equity interests or options or other rights to acquire such equity interests of the Person making such dividend) on, or make any payment on account of, or set apart assets for a sinking or other analogous fund for, the purchase, redemption, defeasance, retirement or other acquisition of, any Capital Stock of any Group Member, whether now or hereafter outstanding, or make any other distribution in respect thereof, either directly or indirectly, whether in cash or property or in obligations of any Group Member (collectively, "Restricted Payments"), except:

(a) the payment of dividends and distributions within sixty days after the date of declaration thereof, if at the date of declaration of such payment, such payment would have complied with the other provisions of Section 7.6;

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(b) any Subsidiary may make Restricted Payments to the Borrower or any other Subsidiary (and, in the case of a Restricted Payment by a non-Wholly Owned Subsidiary, to the Borrower and any Subsidiary and to each other owner of equity interests of such Subsidiary based on their relative ownership interests);

(c) the Borrower may make Restricted Payments pursuant to and in accordance with stock option plans or other benefit plans for management, employees consultants or directors of the Borrower and its Subsidiaries and stock purchase plans with employees, officers, consultants or directors;

(d) the Borrower may pay cash dividends to holders of Permitted Preferred Stock; provided that, in the case of any Restricted Payment made pursuant to this clause (d), (x) no Default or Event of Default shall have occurred or be continuing after giving effect to any such Restricted Payment and (y) the Borrower shall be in pro forma compliance with the covenants set forth in Section 7.1 after giving effect to any such Restricted Payment and the incurrence of any Indebtedness in connection therewith;

(e) repurchases of equity interests of the Borrower deemed to occur upon the non-cash exercise of stock options, warrants, stock appreciation rights and restricted stock units;

(f) the Borrower may make Restricted Payments with any cash proceeds contributed to its common equity and from the Net Cash Proceeds of any permitted equity issuance, so long as, with respect to any such Restricted Payments, no Event of Default shall have occurred or be continuing after giving effect to any such Restricted Payment;

(g) the Borrower may repurchase, retire or otherwise acquire stock appreciation rights, restricted stock units or other equity securities of the Borrower from directors, officers or employees of the Borrower or any Subsidiary Guarantor (or their estate, family members, spouse and/or former spouse);

(h) the Borrower or any Subsidiary Guarantor may honor any conversion request by a holder of convertible Indebtedness and make cash payments in lieu of fractional shares in connection with any such conversion and may make payments on convertible Indebtedness in accordance with its terms; and

(i) the Borrower may make other Restricted Payments not otherwise permitted by this Section so long as (x) no Default or Event of Default shall have occurred or be continuing after giving effect to any such Restricted Payment and (y) the Borrower shall be in pro forma compliance with the covenants set forth in Section 7.1 (provided that the Borrower's Consolidated Leverage Ratio shall be at least 0.25 less than the applicable level set forth in Section 7.1(a)) after giving effect to any such Restricted Payment and the incurrence of any Indebtedness in connection therewith.

7.7 Lines of Business. Enter into any material line of business, either directly or through any Subsidiary, substantially different from those lines of businesses in which the Borrower and its Subsidiaries are engaged on the date of this Agreement or that are not reasonably related, complementary, synergistic, ancillary or incidental thereto or reasonable extensions thereof.

7.8 Investments. Make any advance, loan, extension of credit (by way of guaranty or otherwise) or capital contribution to, or purchase any Capital Stock, bonds, notes, debentures or other debt securities of, or any assets constituting a business unit of, or make any other investment in, any Person (all of the foregoing, "Investments"), except:

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(a) extensions of trade credit in the ordinary course of business (including advances made to distributors consistent with past practice), Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors, and Investments consisting of prepayments to suppliers in the ordinary course of business and consistent with past practice;

(b) investments in cash and Cash Equivalents or that were Cash Equivalents when made;

(c) Guarantee Obligations permitted by Section 7.2;

(d) loans and advances to officers, directors and employees of any Group Member (i) in the ordinary course of business (including for travel, entertainment and relocation expenses), (ii) in connection with such Person's purchase of equity interests of the Borrower, in an aggregate amount not to exceed \$10,000,000 at any one time outstanding and (iii) relating to indemnification of any officers, directors or employees in respect of liabilities relating to their serving in any such capacity, and any reimbursement of any such officer, director or employee of expenses relating to the claims giving rise to such indemnification;

(e) Investments in existence on the date hereof listed on Schedule 7.8(e) and any modification, replacement, renewal or extension thereof;

(f) intercompany Investments by any Group Member in the Borrower or any Person that, prior to, or after giving effect to, such investment, is a Wholly Owned Subsidiary Guarantor;

(g) intercompany Investments by any Group Member in a Subsidiary that is not a Wholly Owned Subsidiary Guarantor; provided that the aggregate amount of such Investments (excluding all such Investments otherwise permitted pursuant to this Section 7.8), less any cash return on Investments received after the date hereof, shall not at the time of the making of any such Investment exceed the greater of (i) \$140,000,000 and (ii) 45.0% of Consolidated EBITDA for the period of four consecutive fiscal quarters most recently ended on or prior to such time for which financial statements are available, calculated on a Pro Forma Basis;

(h) Investments consisting of deposit or securities accounts maintained in the ordinary course of business;

(i) any acquisition of any assets or capital stock of another Person (including as a result of merger or otherwise); provided that (i) the Borrower shall be in pro forma compliance with the covenants in Section 7.1 after giving effect to such acquisition for which financial statements are available as if such acquisition occurred immediately prior to the first day of the period of four consecutive fiscal quarters most recently ended prior to such acquisition; and (ii) if such acquisition would require the Borrower to provide pro forma financial information regarding such acquisition in a current report on Form 8-K, quarterly report on Form 10-Q, or annual report on Form 10-K filed with the SEC, the Borrower shall have delivered a certificate of a Responsible Officer certifying the Borrower's pro forma compliance described in clause (i) above and containing all information and calculations necessary for determining such compliance;

(j) Investments (including debt obligations and equity interests) received in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with, customers and suppliers, in each case in the ordinary course of business;

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(k) Investments in exchange for, or made with the proceeds (within 180 days of receipt) of, existing Investments which are of at least equivalent market value (as reasonably determined by the Borrower's chief financial officer, chief executive officer, corporate controller or president as at the time of exchange or disposition) as such existing Investments and are of the same type and nature as such existing Investment;

(l) Investments by the Borrower or any Domestic Subsidiary in any Foreign Subsidiary in connection with any Permitted Acquisition or Investment permitted by this Section 7.8; provided that the proceeds of such Investments shall be used directly or indirectly through one or more Subsidiaries solely for the purpose of paying the consideration and transaction costs related to such Permitted Acquisition or Investment permitted by this Section 7.8;

(m) Investments in the ordinary course of business consisting of (i) endorsements for collection or deposit and (ii) customary trade arrangements with customers consistent with past practices;

(n) the licensing, sublicensing or contribution of Intellectual Property rights with Persons other than the Borrower and its Subsidiaries in the ordinary course of business on customary terms;

(o) Investments of a Subsidiary that is acquired after the Closing Date or of a company merged or amalgamated or consolidated into the Borrower or merged, amalgamated or consolidated with a Subsidiary, in each case in accordance with Section 7.4, 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 that do not constitute a material portion of the assets acquired by the Borrower and its Subsidiaries in such transaction and were in existence or committed to be made on the date of such acquisition, merger or consolidation;

(p) advances of payroll payments to employees in the ordinary course of business and Investments made pursuant to employment and severance arrangements of 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;

(q) Investments consisting of purchases and acquisitions of supplies, materials and equipment;

(r) Investments by any Foreign Subsidiary in any other Foreign Subsidiary;

(s) in addition to Investments otherwise expressly permitted by this Section, Investments by the Borrower or any of its Subsidiaries in an aggregate amount (valued at cost) not to exceed \$50,000,000 in any fiscal year;

(t) Investments acquired by the Borrower or any Subsidiary in connection with a Disposition permitted under Section 7.5; and

(u) for purposes of determining compliance with this Section 7.8, in the event that any Investment meets the criteria of more than one of the types of Investments described in this Section 7.8, the Borrower, in its sole discretion, shall classify, and may from time to time reclassify, such Investment and only be required to include the amount and type of such Investment in one of the clauses of this Section 7.8.

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7.9 Transactions with Affiliates. Enter into any transaction, including any purchase, sale, lease or exchange of property, the rendering of any service or the payment of any management, advisory or similar fees, with any Affiliate (other than the Borrower or any Subsidiary) unless such transaction is (a) otherwise permitted under this Agreement, (b) upon fair and reasonable terms and conditions substantially as favorable to the Borrower or such Subsidiary as it would obtain in a comparable arm's length transaction with a Person that is not an Affiliate, and (c) in the ordinary course of business of the relevant subsidiary.

7.10 Sales and Leasebacks. Enter into any arrangement with any Person providing for the leasing by any Group Member of real or personal property that has been or is to be sold or transferred by such Group Member to such Person or to any other Person to whom funds have been or are to be advanced by such Person on the security of such property or rental obligations of such Group Member unless such arrangement is permitted under Section 7.2(e).

7.11 Swap Agreements. Enter into any Swap Agreement, except (a) Swap Agreements entered into, or guaranteed, to hedge or mitigate risks, including currency risks, or potential Capital Stock dilution to which the Borrower or any Subsidiary has actual exposure and (b) Swap Agreements entered into, or guaranteed, in order to effectively fix, cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability, currency liability, Capital Stock values or investment of the Borrower or any Subsidiary.

7.12 Changes in Fiscal Periods. Permit the fiscal year of the Borrower to end on a day other than December 31 or change the Borrower's method of determining fiscal quarters, provided, however, that the Borrower 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.

7.13 Negative Pledge Clauses. Enter into or suffer to exist or become effective any agreement that prohibits or limits the ability of any Group Member to create, incur, assume or suffer to exist any Lien securing the Obligations upon any of its property or revenues, whether now owned or hereafter acquired, other than:

(a) this Agreement and the other Loan Documents;

(b) any restrictions imposed by any agreements governing any secured Indebtedness (including any purchase money Liens or Capital Lease Obligations) otherwise permitted hereby (in which case, any prohibition or limitation shall only be effective against the assets financed thereby);

(c) any restrictions imposed by agreements governing a Disposition permitted under Section 7.5, provided that such prohibition or limitation relates solely to property to be disposed of;

(d) customary restrictions in leases, subleases, licenses or asset sale agreements otherwise permitted hereby so long as such restrictions may relate to the assets subject thereto;

(e) customary provisions restricting subletting or assignment of any lease governing a leasehold interest;

(f) customary provisions restricting assignment of any agreement entered into in the ordinary course of business;

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(g) any restrictions imposed by Requirement of Law;

(h) customary provisions in joint venture agreements or similar agreements or the organizational documents of Subsidiaries that are not Wholly Owned Subsidiaries; and

(i) any agreement in effect at the time a Person becomes a Subsidiary of the Borrower, so long as such agreement was not entered into in contemplation of such Person becoming a Subsidiary.

7.14 Clauses Restricting Subsidiary Distributions. Enter into or suffer to exist or become effective any consensual encumbrance or restriction on the ability of any Subsidiary of the Borrower to (a) make Restricted Payments in respect of any Capital Stock of such Subsidiary held by, or pay any Indebtedness owed to, the Borrower or any other Subsidiary of the Borrower, (b) make loans or advances to, or other Investments in, the Borrower or any other Subsidiary of the Borrower or (c) transfer any of its assets to the Borrower or any other Subsidiary of the Borrower, except for such encumbrances or restrictions existing under or by reason of (i) applicable law, (ii) any restrictions existing under the Loan Documents, (iii) any restrictions with respect to a Subsidiary imposed pursuant to an agreement that has been entered into in connection with the Disposition of all or substantially all of the Capital Stock or assets of such Subsidiary, (iv) any restrictions governing a Disposition permitted under Section 7.5, provided that such restriction relates solely to property to be disposed of, (v) any restrictions in existence at the time of any acquisition consummated in accordance with Section 7.8(i), (vi) customary provisions restricting assignment of any agreement entered into in the ordinary course of business, (vii) customary provisions in joint venture agreements or similar agreements or the organizational documents of Subsidiaries that are not Wholly Owned Subsidiaries, and (viii) any agreements governing purchase money Indebtedness or Capital Lease Obligations permitted hereby.

## SECTION 8. EVENTS OF DEFAULT

8.1 Events of Default. If any of the following events shall occur and be continuing:

(a) the Borrower shall fail to pay any principal of any Loan or Reimbursement Obligation when due in accordance with the terms hereof; or the Borrower shall fail to pay any interest on any Loan or Reimbursement Obligation, or any other amount payable hereunder or under any other Loan Document, within five days after any such interest or other amount becomes due in accordance with the terms hereof; or

(b) any representation or warranty made or deemed made by any Loan Party herein or in any other Loan Document or that is contained in any certificate, document or financial or other written statement furnished by it at any time under or in connection with this Agreement or any such other Loan Document shall prove to have been inaccurate in any material respect on or as of the date made or deemed made; or

(c) any Loan Party shall default in the observance or performance of any agreement contained in clause (i) or (ii) of Section 6.4(a) (with respect to the Borrower only), Section 6.7(a) or Section 7 of this Agreement; or

(d) any Loan Party shall default in the observance or performance of any other agreement contained in this Agreement or any other Loan Document (other than as provided in

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paragraphs (a) through (c) of this Section), and such default shall continue unremedied for a period of 30 days after notice to the Borrower from the Administrative Agent or the Required Lenders; or

(e) (i) any Group Member shall (A) default in making any payment of any principal of any Indebtedness (including any Guarantee Obligation, but excluding the Loans) on the scheduled or original due date with respect thereto; or (B) default in making any payment of any interest on any such Indebtedness beyond the period of grace, if any, provided in the instrument or agreement under which such Indebtedness was created; or (ii) any party other than the Borrower to any Indebtedness accelerates the maturity of any amount owing in respect thereof as a result of a default with respect to such Indebtedness, other than secured Indebtedness permitted by Section 7.2 that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness; provided, that a default, event or condition described in clause (i) or (ii) of this paragraph (e) shall not at any time constitute an Event of Default unless, at such time, one or more defaults, events or conditions of the type described in clauses (i) or (ii) of this paragraph (e) shall have occurred and be continuing with respect to Indebtedness the outstanding principal amount of which exceeds in the aggregate \$20,000,000; or

(f) (i) the Borrower or any Material Subsidiary shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of its assets, or the Borrower or any Material Subsidiary shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against the Borrower or any Material Subsidiary any case, proceeding or other action of a nature referred to in clause (i) above that (A) results in the entry of an order for relief or any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of 60 days; or (iii) there shall be commenced against the Borrower or any Material Subsidiary any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets that results in the entry of an order for any such relief that shall not have been vacated, discharged, or stayed or bonded pending appeal within 60 days from the entry thereof; or (iv) the Borrower or any Material Subsidiary shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii), or (iii) above; or (v) any the Borrower or any Material Subsidiary shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due; or

(g) (i) any Person shall engage in any "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code, and not exempt under Section 408 of ERISA and the regulations thereunder) involving any Plan, (ii) any failure to meet the minimum funding standards (as defined in Section 412 of the Code and Section 302 of ERISA), whether or not waived, shall exist with respect to any Plan or any Lien in favor of the PBGC or a Plan shall arise on the assets of any Group Member or any Commonly Controlled Entity, (iii) a Reportable Event shall occur with respect to, or proceedings shall commence to have a trustee appointed, or a trustee shall be appointed, to administer or to terminate, any Single Employer Plan, which Reportable Event or commencement of proceedings or appointment of a trustee is likely to result in the termination of such Plan for purposes of Title IV of ERISA, or any Single Employer Plan shall terminate for purposes of Title IV of ERISA, (iv) any Single Employer Plan shall be determined to be in "at risk" status (with the meaning of Section 430 of the Code or Section 303 of ERISA), or (v) any Group Member or any Commonly Controlled Entity shall incur any liability in connection with a withdrawal from, or the Insolvency or Reorganization of, a Multiemployer Plan or determination that such Multiemployer Plan is in "endangered" or "critical" status (within the

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meaning of Section 432 of the Code or Section 305 of ERISA); and in each case in clauses (i) through (v) above, such event or condition could reasonably be expected to have a Material Adverse Effect; or

(h) one or more judgments or decrees shall be entered against any Group Member involving in the aggregate a liability (not paid or fully covered by insurance as to which the relevant insurance company has acknowledged coverage) of \$20,000,000 or more, and all such judgments or decrees shall not have been vacated, discharged, stayed or bonded pending appeal within 60 days from the entry thereof; or

(i) the guarantee contained in Section 2 of the Guarantee shall cease, for any reason (other than in accordance with Section 10.14 hereof), to be in full force and effect or any Loan Party or any Affiliate of any Loan Party shall so assert; or

(j) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act")) shall become, or obtain rights (whether by means or warrants, options or otherwise) to become, the "beneficial owner" (as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act), directly or indirectly, of more than 40% of the outstanding common stock of the Borrower;

then, and in any such event, (A) if such event is an Event of Default specified in clause (i) or (ii) of paragraph (f) above with respect to the Borrower, automatically the Commitments shall immediately terminate and the Loans (with accrued interest thereon) and all other amounts owing under this Agreement and the other Loan Documents (including all amounts of L/C Obligations, whether or not the beneficiaries of the then outstanding Letters of Credit shall have presented the documents required thereunder) shall immediately become due and payable, and (B) if such event is any other Event of Default, either or both of the following actions may be taken: (i) with the consent of the Required Lenders, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, by notice to the Borrower declare the Revolving Commitments to be terminated forthwith, whereupon the Revolving Commitments shall immediately terminate; and (ii) with the consent of the Required Lenders, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, by notice to the Borrower, declare the Loans (with accrued interest thereon) and all other amounts owing under this Agreement and the other Loan Documents (including all amounts of L/C Obligations, whether or not the beneficiaries of the then outstanding Letters of Credit shall have presented the documents required thereunder) to be due and payable forthwith, whereupon the same shall immediately become due and payable. With respect to all Letters of Credit with respect to which presentment for honor shall not have occurred at the time of an acceleration pursuant to this paragraph, the Borrower shall at such time deposit in a cash collateral account opened by the Administrative Agent an amount equal to the aggregate then undrawn and unexpired amount of such Letters of Credit and all such amounts deposited shall be applied to reduce the outstanding L/C Obligations. Amounts held in such cash collateral account shall be applied by the Administrative Agent to the payment of drafts drawn under such Letters of Credit, and the unused portion thereof after all such Letters of Credit shall have expired or been fully drawn upon, if any, shall be applied to repay other obligations of the Borrower hereunder and under the other Loan Documents. After all such Letters of Credit shall have expired or been fully drawn upon, all Reimbursement Obligations shall have been satisfied and all other obligations of the Borrower hereunder and under the other Loan Documents shall have been paid in full, the balance, if any, in such cash collateral account shall be returned to the Borrower (or such other Person as may be lawfully entitled thereto). Except as expressly provided above in this Section, presentment, demand, protest and all other notices of any kind are hereby expressly waived by the Borrower.

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## SECTION 9. THE AGENTS

9.1 Appointment. Each Lender hereby irrevocably designates and appoints the Administrative Agent as the agent of such Lender under this Agreement and the other Loan Documents, and each such Lender irrevocably authorizes the Administrative Agent, in such capacity, to take such action on its behalf under the provisions of this Agreement and the other Loan Documents and to exercise such powers and perform such duties as are expressly delegated to the Administrative Agent by the terms of this Agreement and the other Loan Documents, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, the Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein, or any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Administrative Agent.

9.2 Delegation of Duties. The Administrative Agent may execute any of its duties under this Agreement and the other Loan Documents by or through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Administrative Agent shall not be responsible for the negligence or misconduct of any agents or attorneys in-fact selected by it with reasonable care.

9.3 Exculpatory Provisions. Neither any Agent nor any of their respective officers, directors, employees, agents, advisors, attorneys-in-fact or affiliates shall be (i) liable for any action lawfully taken or omitted to be taken by it or such Person under or in connection with this Agreement or any other Loan Document (except to the extent that any of the foregoing are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from its or such Person's own gross negligence or willful misconduct) or (ii) responsible in any manner to any of the Lenders for any recitals, statements, representations or warranties made by any Loan Party or any officer thereof contained in this Agreement or any other Loan Document or in any certificate, report, statement or other document referred to or provided for in, or received by the Agents under or in connection with, this Agreement or any other Loan Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document or for any failure of any Loan Party a party thereto to perform its obligations hereunder or thereunder. The Agents shall not be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the properties, books or records of any Loan Party.

9.4 Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely, and shall be fully protected in relying, upon any instrument, writing, resolution, notice, consent, certificate, affidavit, letter, telecopy, email message, statement, order or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including counsel to the Borrower), independent accountants and other experts selected by the Administrative Agent. The Administrative Agent may deem and treat the payee of any Note as the owner thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with the Administrative Agent. The Administrative Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document unless it shall first receive such advice or concurrence of the Required Lenders (or, if so specified by this Agreement, all Lenders) as it deems appropriate or it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. The Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement and the other Loan Documents in accordance with a request of the Required Lenders (or, if so specified by this

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Agreement, all Lenders), and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and all future holders of the Loans.

9.5 Notice of Default. The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default unless the Administrative Agent has received notice from a Lender or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a “notice of default”. In the event that the Administrative Agent receives such a notice, the Administrative Agent shall give notice thereof to the Lenders. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders (or, if so specified by this Agreement, all Lenders); provided that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Lenders.

9.6 Non-Reliance on Agents and Other Lenders. Each Lender expressly acknowledges that neither the Agents nor any of their respective officers, directors, employees, agents, advisors, attorneys-in-fact or affiliates have made any representations or warranties to it and that no act by any Agent hereafter taken, including any review of the affairs of a Loan Party or any affiliate of a Loan Party, shall be deemed to constitute any representation or warranty by any Agent to any Lender. Each Lender represents to the Agents that it has, independently and without reliance upon any Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their affiliates and made its own decision to make its Loans hereunder and enter into this Agreement. Each Lender also represents that it will, independently and without reliance upon any Agent or any other 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 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 the Loan Parties and their affiliates. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent hereunder, the Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, operations, property, condition (financial or otherwise), prospects or creditworthiness of any Loan Party or any affiliate of a Loan Party that may come into the possession of the Administrative Agent or any of its officers, directors, employees, agents, advisors, attorneys-in-fact or affiliates.

9.7 Indemnification. The Lenders agree to indemnify each Agent in its capacity as such and its officers, directors, employees, affiliates, agents, advisors, and controlling persons (each an “Agent Indemnitee”) (to the extent not reimbursed by the Borrower and without limiting the obligation of the Borrower to do so), ratably according to their respective Aggregate Exposure Percentages in effect on the date on which indemnification is sought under this Section (or, if indemnification is sought after the date upon which the Commitments shall have terminated and the Loans shall have been paid in full, ratably in accordance with such Aggregate Exposure Percentages immediately prior to such date), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever that may at any time (whether before or after the payment of the Loans) be imposed on, incurred by or asserted against such Agent Indemnitee in any way relating to or arising out of, the Commitments, this Agreement, any of the other Loan Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by such Agent Indemnitee under or in connection with any of the foregoing; provided that no Lender shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements that

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are found by final and nonappealable decision of a court of competent jurisdiction to have resulted from such Agent Indemnitee's gross negligence or willful misconduct. The agreements in this Section shall survive the termination of the Agreement and payment of the Loans and all other amounts payable hereunder.

9.8 Agent in Its Individual Capacity. Each Agent and its affiliates may make loans to, accept deposits from and generally engage in any kind of business with any Loan Party as though such Agent were not an Agent. With respect to its Loans made or renewed by it and with respect to any Letter of Credit issued or participated in by it, each Agent shall have the same rights and powers under this Agreement and the other Loan Documents as any Lender and may exercise the same as though it were not an Agent, and the terms "Lender" and "Lenders" shall include each Agent in its individual capacity.

9.9 Successor Administrative Agent. The Administrative Agent may resign as Administrative Agent upon 10 days' notice to the Lenders and the Borrower. If the Administrative Agent shall resign as Administrative Agent under this Agreement and the other Loan Documents, then the Required Lenders shall appoint from among the Lenders a successor agent for the Lenders, which successor agent shall (unless an Event of Default under Section 8.1(a) or Section 8.1(f) with respect to the Borrower shall have occurred and be continuing) be subject to approval by the Borrower (which approval shall not be unreasonably withheld or delayed), whereupon such successor agent shall succeed to the rights, powers and duties of the Administrative Agent, and the term "Administrative Agent" shall mean such successor agent effective upon such appointment and approval, and the former Administrative Agent's rights, powers and duties as Administrative Agent shall be terminated, without any other or further act or deed on the part of such former Administrative Agent or any of the parties to this Agreement or any holders of the Loans. If no successor agent has accepted appointment as Administrative Agent by the date that is 10 days following a retiring Administrative Agent's notice of resignation, the retiring Administrative Agent's resignation shall nevertheless thereupon become effective, and the Lenders shall assume and perform all of the duties of the Administrative Agent hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above. After any retiring Administrative Agent's resignation as Administrative Agent, the provisions of this Section 9 and Section 10.5 shall continue to inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent under this Agreement and the other Loan Documents.

9.10 Co-Syndication Agents and Co-Documentation Agents. The Co-Syndication Agents and Co-Documentation Agents shall have no duties or responsibilities hereunder in their capacity as such.

## SECTION 10. MISCELLANEOUS

10.1 Amendments and Waivers. Neither this Agreement, any other Loan Document, nor any terms hereof or thereof may be amended, supplemented or modified except in accordance with the provisions of this Section 10.1. The Required Lenders and each Loan Party party to the relevant Loan Document may, or, with the written consent of the Required Lenders, the Administrative Agent and each Loan Party party to the relevant Loan Document may, from time to time, (a) enter into written amendments, supplements or modifications hereto and to the other Loan Documents for the purpose of adding any provisions to this Agreement or the other Loan Documents or changing in any manner the rights of the Lenders or of the Loan Parties hereunder or thereunder or (b) waive, on such terms and conditions as the Required Lenders or the Administrative Agent, as the case may be, may specify in such instrument, any of the requirements of this Agreement or the other Loan Documents or any Default or Event of Default and its consequences; provided, however, that no such waiver and no such amendment, supplement or modification shall (i) forgive the principal amount or extend the final scheduled date of maturity of any Loan, extend the scheduled date of any amortization payment in respect of any Term

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Loan, reduce the stated rate of any interest or fee payable hereunder (except (x) in connection with the waiver of applicability of any post-default increase in interest rates (which waiver shall be effective with the consent of the Majority Facility Lenders of each adversely affected Facility) and (y) that any amendment or modification of defined terms used in the financial covenants in this Agreement shall not constitute a reduction in the rate of interest or fees for purposes of this clause (i)) or extend the scheduled date of any payment thereof, or increase the amount or extend the expiration date of any Lender's Revolving Commitment, in each case without the written consent of each Lender directly affected thereby; (ii) eliminate or reduce the voting rights of any Lender under this Section 10.1 without the written consent of such Lender; (iii) reduce any percentage specified in the definition of Required Lenders, consent to the assignment or transfer by the Borrower of any of its rights and obligations under this Agreement and the other Loan Documents, release or limit any Subsidiary Guarantor that is a Material Subsidiary from its obligations under the Guarantee (other than pursuant to Section 10.14 hereof), in each case without the written consent of all Lenders; (iv) amend, modify or waive any provision of Section 2.15 without the written consent of all Lenders under each Facility adversely affected thereby; (v) reduce the amount of Net Cash Proceeds required to be applied to prepay Loans under this Agreement without the written consent of the Majority Facility Lenders with respect to each Facility; (vi) reduce the percentage specified in the definition of Majority Facility Lenders with respect to any Facility without the written consent of all Lenders under such Facility; (vii) amend, modify or waive any provision of Section 9 or any other provision of any Loan Document that affects the Administrative Agent without the written consent of the Administrative Agent; (viii) amend, modify or waive any provision of Section 3 without the written consent of the Issuing Lender or (ix) amend, modify or waive any provision of Section 2.21 without the written consent of the Issuing Lender and the Administrative Agent. Any such waiver and any such amendment, supplement or modification shall apply equally to each of the Lenders and shall be binding upon the Loan Parties, the Lenders, the Administrative Agent and all future holders of the Loans. In the case of any waiver, the Loan Parties, the Lenders and the Administrative Agent shall be restored to their former position and rights hereunder and under the other Loan Documents, and any Default or Event of Default waived shall be deemed to be cured and not continuing; but no such waiver shall extend to any subsequent or other Default or Event of Default, or impair any right consequent thereon.

Notwithstanding this Section 10.1, the Commitments of any Defaulting Lender shall be disregarded for all purposes of any determination of whether the Required Lenders have taken or may take any action hereunder (including any consent to any waiver, amendment, supplement or modification pursuant to this Section 10.1); provided that any waiver, amendment, supplement or modification of the type described in clause (i) of this Section 10.1 shall require the consent of any Defaulting Lender.

Notwithstanding the foregoing, this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent and the Borrower (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 Revolving Extensions of Credit 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 and Majority Facility Lenders.

10.2 Notices. All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (including by telecopy), and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered, or three Business Days after being deposited in the mail, postage prepaid, or, in the case of telecopy notice, when received, addressed as follows in the case of the Borrower and the Administrative Agent, and as set forth in an administrative

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questionnaire delivered to the Administrative Agent in the case of the Lenders, or to such other address as may be hereafter notified by the respective parties hereto:

Borrower:	Gartner, Inc. 56 Top Gallant Road Stamford, CT 06904 Attention: General Counsel Facsimile: (203) 316-6245 Telephone: (203) 316-6311
with a copy to:	Gartner, Inc. 56 Top Gallant Road Stamford, CT 06904 Attention: Chief Financial Officer Facsimile: (866) 785-2981 Telephone: (203) 316-6876
Administrative Agent:	JPMorgan Chase Bank, N.A. JPMorgan Loan Services 10 South Dearborn, Chicago, IL 60603 Attention: Leonida Mischke Facsimile: 888-266-8058 Telephone: 312-385-7055
with a copy to:	JPMorgan Chase Bank, N.A. Two Corporate Drive, Suite 730 Shelton, CT 06484 Attention: Scott Farquhar Facsimile: 203-944-8495;

provided that any notice, request or demand to or upon the Administrative Agent or the Lenders shall not be effective until received.

Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices pursuant to Section 2 unless otherwise agreed by the Administrative Agent and the applicable Lender. 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.

10.3 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of the Administrative Agent or any Lender, any right, remedy, power or privilege hereunder or under the other Loan Documents 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 are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

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10.4 Survival of Representations and Warranties. All representations and warranties made hereunder, in the other Loan Documents and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the making of the Loans and other extensions of credit hereunder.

10.5 Payment of Expenses and Taxes. The Borrower agrees (a) to pay or reimburse the Administrative Agent for all its out-of-pocket costs and expenses incurred in connection with the development, preparation and execution of, and any amendment, supplement or modification to, this Agreement and the other Loan Documents and any other documents prepared in connection herewith or therewith, and the consummation and administration of the transactions contemplated hereby and thereby, including the reasonable and documented fees and disbursements of counsel to the Administrative Agent and filing and recording fees and expenses, with statements with respect to the foregoing to be submitted to the Borrower prior to the Closing Date (in the case of amounts to be paid on the Closing Date) and from time to time thereafter on a quarterly basis or such other periodic basis as the Administrative Agent shall deem appropriate, (b) to pay or reimburse each Lender and the Administrative Agent for all its costs and expenses incurred in connection with the enforcement or preservation of any rights under this Agreement, the other Loan Documents and any such other documents, including the reasonable and documented fees and disbursements of counsel to each Lender and of counsel to the Administrative Agent, (c) to pay, indemnify, and hold each Lender and the Administrative Agent harmless from, any and all recording and filing fees and any and all liabilities with respect to, or resulting from any delay in paying, stamp, excise and other similar taxes, if any, that may be payable or determined to be payable in connection with the execution and delivery of, or consummation or administration of any of the transactions contemplated by, or any amendment, supplement or modification of, or any waiver or consent under or in respect of, this Agreement, the other Loan Documents and any such other documents, and (d) to pay, indemnify, and hold each Lender and the Administrative Agent and their respective officers, directors, employees, affiliates, agents and controlling persons (each, an “Indemnitee”) harmless from and against any and all other liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Agreement, the other Loan Documents and any such other documents, including any of the foregoing relating to the use of proceeds of the Loans or the violation of, noncompliance with or liability under, any Environmental Law applicable to any Group Member including with respect to any property at any time owned, leased, or used by any Group Member, or any orders, requirements or demands of Governmental Authorities related thereto, and the reasonable fees and expenses of legal counsel in connection with claims, actions or proceedings by any Indemnitee against any Loan Party under any Loan Document (all the foregoing in this clause (d), collectively, the “Indemnified Liabilities”), provided, that the Borrower shall have no obligation hereunder to any Indemnitee with respect to Indemnified Liabilities to the extent such Indemnified Liabilities are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of such Indemnitee. Without limiting the foregoing, and to the extent permitted by applicable law, the Borrower agrees not to assert and to cause its Subsidiaries not to assert, and hereby waives and agrees to cause its Subsidiaries to waive, all rights for contribution or any other rights of recovery with respect to all claims, demands, penalties, fines, liabilities, settlements, damages, costs and expenses of whatever kind or nature, under or related to Environmental Laws, that any of them might have by statute or otherwise against any Indemnitee. All amounts due under this Section 10.5 shall be payable not later than 10 days after written demand therefor. Statements payable by the Borrower pursuant to this Section 10.5 shall be submitted to the Borrower at the address set forth in Section 10.2, or to such other Person or address as may be hereafter designated by the Borrower in a written notice to the Administrative Agent. The agreements in this Section 10.5 shall survive repayment of the Loans and all other amounts payable hereunder.

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10.6 Successors and Assigns; Participations and Assignments. (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 (including any Affiliate of the Issuing Lender that issues any Letter of Credit), except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may 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 Commitments and the Loans at the time owing to it) with the prior written consent of:

(A) the Borrower (such consent not to be unreasonably withheld or delayed), provided that no consent of the Borrower shall be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund (as defined below) or, if an Event of Default under Section 8.1(a) or (f) has occurred and is continuing, any other Person;

(B) the Administrative Agent (such consent not to be unreasonably withheld or delayed), 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; and

(C) the Issuing Lender (such consent not to be unreasonably withheld), provided that no consent of the Issuing Lender shall be required for an assignment of all or any portion of a Term Loan.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender’s Commitments or Loans under any Facility, the amount of the Commitments 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 \$5,000,000 (or, in the case of the Term Facility, \$1,000,000) unless each of the Borrower and the Administrative Agent otherwise consent, provided that (1) no such consent of the Borrower shall be required if an Event of Default under Section 8.1(a) or (f) has occurred and is continuing and (2) such amounts shall be aggregated in respect of each Lender and its Affiliates or Approved Funds, if any;

(B) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500; and

(C) the Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an administrative questionnaire.

For the purposes of this Section 10.6, “Approved Fund” means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) a

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Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) below, from and after the effective date specified in each Assignment and Assumption the Assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.16, 2.17, 2.18 and 10.5). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 10.6 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 paragraph (c) of this Section.

(iv) The Administrative Agent, acting for this purpose as an agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount (and stated interest) of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, and the Borrower, the Administrative Agent, the Issuing Lender 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 any Lender at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an Assignee, the Assignee's completed administrative questionnaire (unless the Assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(c) (i) Any Lender may, without the consent of the Borrower or the Administrative Agent, sell participations to one or more banks or other entities (a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrower, the Administrative Agent, the Issuing Lender 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 pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver that (1) requires the consent of each Lender directly affected thereby pursuant to the proviso to the second sentence of Section 10.1 and (2) directly affects such Participant. Subject to paragraph (c)(ii) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of, and subject to the limitations of, Sections 2.16, 2.17 and 2.18 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of

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Section 10.7(b) as though it were a Lender, provided such Participant shall be subject to Section 10.7(a) as though it were a Lender. Each Lender that sells a participation, acting solely for this purpose as an agent of the Borrower, shall maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) 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 to any Person (including the identity of any Participant or any information relating to a Participant's interest in any Commitments, Loans, Letters of Credit or its other obligations under any Loan Document) except to the extent that such disclosure is necessary to establish that such Commitment, Loan, Letter of Credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive, and such Lender, each Loan Party and the Administrative Agent shall treat each person whose name is recorded in the Participant Register pursuant to the terms hereof as the owner of such participation for all purposes of this Agreement, notwithstanding notice to the contrary.

(ii) A Participant shall not be entitled to receive any greater payment under Section 2.16 or 2.17 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. No Participant shall be entitled to the benefits of Section 2.17 unless such Participant complies with Section 2.17(d), (e) and (f) as if it were a Lender.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or Assignee for such Lender as a party hereto.

(e) The Borrower, upon receipt of written notice from the relevant Lender, agrees to issue Notes to any Lender requiring Notes to facilitate transactions of the type described in paragraph (d) above.

(f) Notwithstanding the foregoing, any Conduit Lender may assign any or all of the Loans it may have funded hereunder to its designating Lender without the consent of the Borrower or the Administrative Agent and without regard to the limitations set forth in Section 10.6(b). Each of the Borrower, each Lender and the Administrative Agent hereby confirms that it will not institute against a Conduit Lender or join any other Person in instituting against a Conduit Lender any bankruptcy, reorganization, arrangement, insolvency or liquidation proceeding under any state bankruptcy or similar law, for one year and one day after the payment in full of the latest maturing commercial paper note issued by such Conduit Lender; provided, however, that each Lender designating any Conduit Lender hereby agrees to indemnify, save and hold harmless each other party hereto for any loss, cost, damage or expense arising out of its inability to institute such a proceeding against such Conduit Lender during such period of forbearance.

10.7 Adjustments; Set-off. (a) Except to the extent that this Agreement expressly provides for payments to be allocated to a particular Lender or to the Lenders under a particular Facility, if any Lender (a "Benefitted Lender") shall, at any time after the Loans and other amounts payable hereunder shall immediately become due and payable pursuant to Section 8, receive any payment of all or part of the Obligations owing to it, or receive any collateral in respect thereof (whether voluntarily or involuntarily, by set-off, pursuant to events or proceedings of the nature referred to in Section 8.1(f), or otherwise), in a greater proportion than any such payment to or collateral received by any other Lender, if any, in respect of the Obligations owing to such other Lender, such Benefitted Lender shall purchase for

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cash from the other Lenders a participating interest in such portion of the Obligations owing to each such other Lender, or shall provide such other Lenders with the benefits of any such collateral, as shall be necessary to cause such Benefitted Lender to share the excess payment or benefits of such collateral ratably with each of the Lenders; provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such Benefitted Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest.

(b) In addition to any rights and remedies of the Lenders provided by law, each Lender shall have the right, without prior notice to the Borrower, any such notice being expressly waived by the Borrower to the extent permitted by applicable law, upon the occurrence and during the Continuance of an Event of Default, to set off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender or any branch or agency thereof to or for the credit or the account of the Borrower, as the case may be. 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.

10.8 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed signature page of this Agreement by facsimile transmission or via email attachment shall be effective as delivery of a manually executed counterpart hereof. A set of the copies of this Agreement signed by all the parties shall be lodged with the Borrower and the Administrative Agent.

10.9 Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

10.10 Integration. This Agreement and the other Loan Documents represent the entire agreement of the Borrower, the Administrative Agent and the Lenders with respect to the subject matter hereof and thereof, and there are no promises, undertakings, representations or warranties by the Administrative Agent or any Lender relative to the subject matter hereof not expressly set forth or referred to herein or in the other Loan Documents.

10.11 **GOVERNING LAW**. THIS AGREEMENT 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.

10.12 Submission To Jurisdiction; Waivers. The Borrower hereby irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of the courts of the State of New York, the courts of the United States for the Southern District of New York, and appellate courts from any thereof;

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(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to the Borrower, as the case may be at its address set forth in Section 10.2 or at such other address of which the Administrative Agent shall have been notified pursuant thereto;

(d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction; and

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section any special, exemplary, punitive or consequential damages.

10.13 Acknowledgements. The Borrower hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents;

(b) neither the Administrative Agent nor any other Credit Party has any fiduciary relationship with or duty to the Borrower arising out of or in connection with this Agreement or any of the other Loan Documents, and the relationship between Administrative Agent and the other Credit Parties, on one hand, and the Borrower, on the other hand, in connection herewith or therewith is solely that of debtor and creditor;

(c) the Loan Parties are capable of evaluating and understanding, and the Loan Parties understand and accept, the terms, risks and conditions of the transactions contemplated by this Agreement and the other Loan Documents;

(d) the Loan Parties have been advised that the Credit Parties are engaged in a broad range of transactions that may involve interests that differ from the Loan Parties' interests and that the Credit Parties have no obligation to disclose such interests and transactions to the Loan Parties;

(e) the Loan Parties have consulted their own legal, accounting, regulatory and tax advisors to the extent the Loan Parties have deemed appropriate in the negotiation, execution and delivery of this Agreement and the other Loan Documents;

(f) each Credit Party has been, is, and will be acting solely as a principal and, except as otherwise expressly agreed in writing by it and the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Loan Parties, any of their affiliates or any other Person;

(g) none of the Credit Parties has any obligation to the Loan Parties or their affiliates with respect to the transactions contemplated by this Agreement or the other Loan Documents except those obligations expressly set forth herein or therein or in any other express writing executed and delivered by such Credit Party and the Loan Parties or any such affiliate; and

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no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Credit Parties or between the Borrower and the Credit Parties.

10.14 Releases of Guarantees. (a) Notwithstanding anything to the contrary contained herein or in any other Loan Document, the Administrative Agent is hereby irrevocably authorized by each Lender (without requirement of notice to or consent of any Lender except as expressly required by Section 10.1) to take any action requested by the Borrower having the effect of releasing any guarantee obligations (i) to the extent necessary to permit consummation of any transaction not prohibited by any Loan Document or that has been consented to in accordance with Section 10.1 or (ii) under the circumstances described in paragraph (b) below.

(b) At such time as the Loans, the Reimbursement Obligations and the other obligations under the Loan Documents (including obligations under or in respect of Specified Swap Agreements) shall have been paid in full, the Commitments have been terminated and no Letters of Credit shall be outstanding, the Guarantee and all obligations (other than those expressly stated to survive such termination) of the Administrative Agent and each Loan Party under the Guarantee shall terminate, all without delivery of any instrument or performance of any act by any Person.

10.15 Confidentiality. Each of the Administrative Agent and each Lender agrees to keep confidential all non-public information provided to it by any Loan Party, the Administrative Agent or any Lender pursuant to or in connection with this Agreement; provided that nothing herein shall prevent the Administrative Agent or any Lender from disclosing any such information (a) to the Administrative Agent, any other Lender or any affiliate thereof, (b) subject to an agreement to comply with the provisions of this Section, to any actual or prospective Transferee or any direct or indirect counterparty to any Swap Agreement (or any professional advisor to such counterparty), (c) to its employees, directors, agents, attorneys, accountants and other professional advisors or those of any of its affiliates, (d) upon the request or demand of any Governmental Authority, (e) in response to any order of any court or other Governmental Authority or as may otherwise be required pursuant to any Requirement of Law, (f) if requested or required to do so in connection with any litigation or similar proceeding, (g) that has been publicly disclosed, (h) to the National Association of Insurance Commissioners or any similar organization or any nationally recognized rating agency that requires access to information about a Lender's investment portfolio in connection with ratings issued with respect to such Lender, or (i) in connection with the exercise of any remedy hereunder or under any other Loan Document.

Each Lender acknowledges that information furnished to it pursuant to this Agreement or the other Loan Documents may include material non-public information concerning the Borrower and its Affiliates and their related parties or their respective securities, and confirms that it has developed compliance procedures regarding the use of material non-public information and that it will handle such material non-public information in accordance with those procedures and applicable law, including Federal and state securities laws.

All information, including requests for waivers and amendments, furnished by the Borrower or the Administrative Agent pursuant to, or in the course of administering, this Agreement or the other Loan Documents will be syndicate-level information, which may contain material non-public information about the Borrower and its Affiliates and their related parties or their respective securities. Accordingly, each Lender represents to the Borrower and the Administrative Agent that it has identified in its administrative questionnaire a credit contact who may receive information that may contain material non-public information in accordance with its compliance procedures and applicable law, including Federal and state securities laws.

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10.16 **WAIVERS OF JURY TRIAL.** THE BORROWER, THE ADMINISTRATIVE AGENT AND THE LENDERS HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

10.17 **USA PATRIOT Act.** Each Lender hereby notifies the Borrower that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender to identify the Borrower in accordance with the Act.

10.18 **Keepwell.** The Borrower absolutely, unconditionally, and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each other Loan Party to honor all of its obligations under the Guarantee in respect of any Swap Obligation. The obligations of the Borrower under this Section 10.18 shall remain in full force and effect until all the Borrower Obligations (as defined in the Guarantee) and the obligations of each Guarantor under Section 2 of the Guarantee shall have been satisfied by payment in full, no Letter of Credit shall be outstanding and the Commitments shall be terminated, notwithstanding that from time to time during the term of the Credit Agreement the Borrower may be free from any Borrower Obligations (as defined in the Guarantee). The Borrower intends that this Section 10.18 constitute, and this Section 10.18 shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each other Loan Party for all purposes of section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

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

GARTNER, INC.

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

Signature page to the Gartner, Inc. Credit Agreement

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JPMORGAN CHASE BANK, N.A., as Administrative  
Agent and as a Lender

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

Signature page to the Gartner, Inc. Credit Agreement

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WELLS FARGO BANK, NATIONAL ASSOCIATION,  
as Co-Syndication Agent and as a Lender

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

Signature page to the Gartner, Inc. Credit Agreement

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RBS CITIZENS, N.A., as Co-Syndication Agent and as  
a Lender

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

Signature page to the Gartner, Inc. Credit Agreement

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[Name of Co-Documentation Agent], as Co-Documentation Agent and as a Lender

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

Signature page to the Gartner, Inc. Credit Agreement

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[Name of Lender], as a Lender

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

Name:

Title:

Signature page to the Gartner, Inc. Credit Agreement

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## CERTIFICATION

I, Eugene A. Hall, certify that:

(1) I have reviewed this Quarterly Report on Form 10-Q for the quarter ended March 31, 2013, of Gartner, Inc.;

(2) Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

(3) Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

(4) The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 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 the registrant's board of directors:

- a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
- b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

May 2, 2013

/s/ Eugene A. Hall

Eugene A. Hall

Chief Executive Officer

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## CERTIFICATION

I, Christopher J. Lafond, certify that:

(1) I have reviewed this Quarterly Report on Form 10-Q for the quarter ended March 31, 2013, of Gartner, Inc.;

(2) Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

(3) Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

(4) The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 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 the registrant's board of directors:

- a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
- b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

May 2, 2013

/s/ Christopher J. Lafond

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Christopher J. Lafond  
Chief Financial Officer

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**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO**

**SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Gartner, Inc. (the "Company") on Form 10-Q for the quarter ended March 31, 2013, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), as Chief Executive Officer of the Company and Chief Financial Officer of the Company, each hereby certifies, pursuant to 18 U.S.C. § 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Eugene A. Hall

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Name: Eugene A. Hall  
Title: Chief Executive Officer  
Date: May 2, 2013

/s/ Christopher J. Lafond

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Name: Christopher J. Lafond  
Title: Chief Financial Officer  
Date: May 2, 2013

A signed original of this written statement required by Section 906 has been provided to Gartner, Inc. and will be retained by Gartner, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

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