

Internet at the website address listed on Schedule 10.02; or (ii) on which such documents are posted on the Borrower's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that: (i) the Borrower shall deliver paper copies of such documents to the Administrative Agent or any Lender upon its request to the Borrower to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (ii) the Borrower shall notify the Administrative Agent and each Lender (by facsimile or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. The Administrative Agent shall have no obligation to request the delivery of or to maintain paper copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request by a Lender for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Arranger may make available to the Lenders and the L/C Issuer materials and/or information provided by or on behalf of the Borrower hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on Debt Domain, IntraLinks, Syndtrak or another similar electronic system (the "Platform"), provided, however, that the Administrative Agent shall not have any obligation to use any such Platform to distribute or make available any Borrower Materials and (b) certain of the Lenders (each, a "Public Lender") may have personnel who do not wish to receive material non-public information with respect to the Borrower or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons' securities. The Borrower hereby agrees that, so long as the Borrower is the issuer of any outstanding debt or equity securities that are registered or issued pursuant to a private offering or is actively contemplating issuing any such securities, (w) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Borrower shall be deemed to have authorized the Administrative Agent, the Arrangers, the L/C Issuer and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to the Borrower or its securities for purposes of United States Federal and state securities laws (provided, however, that to the extent

such Borrower Materials constitute Information, they shall be treated as set forth in Section 10.07); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information;" and (z) the Administrative Agent and the Arranger shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Side Information." Notwithstanding the foregoing, the Borrower shall be under no obligation to mark any Borrower Materials "PUBLIC."

6.03 Notices. Promptly notify the Administrative Agent and each Lender:

(a) of the occurrence of any Default;

(b) of any matter that has resulted or would reasonably be expected to result in a Material Adverse Effect, including (i) breach or non-performance of, or any default under, a material Contractual Obligation of the Borrower or any Subsidiary; (ii) any dispute, litigation, investigation, proceeding or suspension between the Borrower or any Subsidiary and any Governmental Authority; or (iii) the commencement of, or any material development in (including, without limitation, any exercise by the Environmental Protection Agency of any right under any easement granted with respect to the Acquired Property), any litigation or proceeding affecting the Borrower or any Subsidiary, including pursuant to any applicable Environmental Laws;

(c) of the occurrence of any ERISA Event; and

(d) of any material change in accounting policies or financial reporting practices by the Borrower or any Subsidiary, including any determination by the Borrower referred to in Section 2.10(b).

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

6.04 Payment of Obligations. Pay and discharge as the same shall become due and payable, all its obligations and liabilities, including (a) all tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, unless the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are

being maintained by the Borrower or such Subsidiary; (b) all lawful claims which, if unpaid, would by law become a Lien upon its property unless the same are being contested in good faith by appropriate proceedings diligently prosecuted which stay the imposition or enforcement of any Lien and for which adequate reserves in accordance with GAAP are being maintained by such Person; and (c) all Indebtedness as and when due and payable, but subject to any subordination provisions contained in any instrument or agreement evidencing such Indebtedness, and except where the failure to so pay or perform would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

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

6.06 Maintenance of Properties. (a) Maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted; (b) make all necessary repairs thereto and renewals and replacements thereof except where the failure to do so could not reasonably be expected to have a Material Adverse Effect; and (c) use a standard of care in the operation and maintenance of its facilities that is customarily expected with respect to operators of such facilities.

6.07 Maintenance of Insurance. Maintain with financially sound and reputable insurance companies not Affiliates of the Borrower, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts as are customarily carried under similar circumstances by such other Persons.

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

6.09 Books and Records. Maintain proper books of record and account, in which full, true and correct entries in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of the Borrower or such Subsidiary, as the case may be.

6.10 Inspection Rights. Permit representatives and independent contractors of the Administrative Agent and each Lender (provided that if there is more than one Lender, any such visits or inspections are coordinated through the Administrative Agent) to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, at such reasonable times during normal business hours, upon reasonable advance notice to the Borrower; provided, however, that (a) except during the occurrence and continuance of an Event of Default, there shall not occur, and the Borrower shall not be required to reimburse the Administrative Agent or any Lender for the charges, costs and expenses in connection with, more than one such visit or inspection in any calendar year and (b) after the occurrence and during the continuance of an Event of Default, the Administrative Agent and the Lenders (or any of their representatives or independent

contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and without advance notice.

6.11 Use of Proceeds. Use the proceeds of the Credit Extensions (a) to refinance certain existing Indebtedness of the Borrower and its Subsidiaries on the Closing Date, including, without limitation, Indebtedness under the Existing Credit Agreement, (b) to finance, in part, the Closing Date Acquisition and (c) for working capital and other general corporate purposes not in contravention of

any Law or of any Loan Document, including, without limitation, Investments and share repurchases and other Restricted Payments permitted hereunder.

6.12 Additional Guarantors. Notify the Administrative Agent at the time that any Person becomes a Domestic Subsidiary (other than an Excluded Subsidiary), and promptly thereafter (and in any event within 30 days), cause such Person (except solely to the extent such Person is prohibited under applicable Law from Guaranteeing the Obligations pursuant to the Guaranty) to (a) become a Guarantor by executing and delivering to the Administrative Agent a counterpart of the Guaranty or such other document as the Administrative Agent shall deem appropriate for such purpose, and (b) deliver to the Administrative Agent documents of the types referred to in clauses (iii) and (iv) of Section 4.01(a) and, to the extent requested by the Administrative Agent, favorable opinions of counsel to such Person (which shall cover, among other things, the legality, validity, binding effect and enforceability of the documentation referred to in clause (a)), all in form, content and scope reasonably satisfactory to the Administrative Agent.

6.13 Further Assurances. Promptly upon request by the Administrative Agent, or any Lender through the Administrative Agent, (a) correct any material defect or error that may be discovered in any Loan Document or in the execution, acknowledgment, filing or recordation thereof, and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent, or any Lender through the Administrative Agent, may reasonably require from time to time in order to carry out more effectively the purposes of the Loan Documents.

ARTICLE VII NEGATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder shall remain unpaid or unsatisfied (other than unasserted contingent indemnity Obligations), or any Letter of Credit shall remain outstanding, the Loan Parties shall not, nor shall it permit any Subsidiary to, directly or indirectly:

7.01 Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, other than the following:

(a) Liens pursuant to any Loan Document;

(b) (A) Liens existing on the date hereof and listed on Schedule 7.01 and any renewals or extensions thereof, provided that (i) the property covered thereby is not changed, (ii) the amount secured or benefited thereby is not increased except as contemplated by Section

7.03(b), (iii) the direct or any contingent obligor with respect thereto is not changed, and (iv) any renewal or extension of the obligations secured or benefited thereby is permitted by Section 7.03(b), and (B) Liens existing on the date hereof and listed on Exhibit B to the owner's title policy related to the Acquired Property and disclosed to the Administrative Agent and the Lenders;

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

(d) carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business which are not overdue for a period of more than 30 days or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person;

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

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

(g) Liens comprised of minor defects, irregularities and deficiencies in title to, and easements, rights-of-way, restrictions and other similar encumbrances affecting real property which, in the aggregate, are not substantial in amount, and which do not in any case

materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person;

(h) Liens securing judgments for the payment of money not constituting an Event of Default under Section 8.01(h);

(i) Liens securing Indebtedness permitted under Section 7.03(e); provided that (i) such Liens do not at any time encumber any property other than the property financed by such Indebtedness, (ii) the Indebtedness secured thereby does not exceed the cost or fair market value, whichever is lower, of the property being acquired on the date of acquisition and (iii) the principal amount of Indebtedness secured by Liens permitted under (1) this Section 7.01(i) plus (2) Section 7.01(j) plus (3) Section 7.01(k) plus (4) Section 7.01(l) shall not exceed \$70,000,000 in the aggregate at any one time outstanding;

(j) Liens securing Indebtedness permitted under Section 7.03(g); provided that (i) the principal amount of Indebtedness secured by such Liens shall not exceed \$10,000,000 at any one time outstanding and (ii) the principal amount of Indebtedness secured by Liens permitted under (1) this Section 7.01(j) plus (2) Section 7.01(i) plus (3) Section 7.01(k) plus (4) Section 7.01(l) shall not exceed \$70,000,000 in the aggregate at any one time outstanding;

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(k) Liens on property of a Person existing at the time such Person becomes a Subsidiary pursuant to a purchase or acquisition permitted by Section 7.02(i); provided that (i) such Liens were not created in contemplation of such Investment and do not extend to any assets other than those of the Person so purchased or acquired (including proceeds and products of the assets of such Person), (ii) subject to Section 7.03(h), the principal amount of Indebtedness secured by such Liens shall not exceed \$35,000,000 at any one time outstanding and (iii) the principal amount of Indebtedness secured by Liens permitted under (1) this Section 7.01(k) plus (2) Section 7.01(i) plus (3) Section 7.01(j) plus (4) Section 7.01(l) shall not exceed \$70,000,000 in the aggregate at any one time outstanding;

(l) Liens on cash collateral furnished on account of any Swap Contract permitted by Section 7.03(d); provided that (i) the aggregate amount of cash collateral subject to any such Lien under this clause (l) shall not exceed \$5,000,000 in the aggregate at any time outstanding and (ii) the principal amount of Indebtedness secured by Liens permitted under (1) this Section 7.01(l) plus (2) Section 7.01(i) plus (3) Section 7.01(j) plus (4) Section 7.01(k) shall not exceed \$70,000,000 in the aggregate at any one time outstanding;

(m) customary Liens which are within the general parameters in the banking industry arising solely by virtue of statutory or common law provisions relating to banker's liens, rights of set-off or similar rights and remedies or under general depositary agreements, and burdening only deposits or other funds maintained with the applicable depositary institution, provided that in no event shall any such Lien secure any Indebtedness;

(n) any retained interest or title of a lessor under any lease (solely with respect to the assets so leased), which lease is entered into by the Borrower or any Subsidiary in the ordinary course of its business;

(o) Liens for the benefit of a seller deemed to attach solely to cash earnest money deposits in connection with a letter of intent or acquisition agreement with respect to a Permitted Acquisition;

(p) Liens constituting the filing of UCC financing statements solely as a precautionary measure in connection with operating leases or consignment of goods in the ordinary course of business of the Borrower or any Subsidiary (in its capacity as a lessee thereunder) and not prohibited by this Agreement, provided that in no event shall any such Lien secure any Indebtedness; and

(q) other Liens securing Indebtedness and other obligations in an aggregate amount not to exceed \$250,000;

provided, however, that in no event shall any Lien permitted under Section 7.01(b), (e), (f), (i), (j), (k), (l), (m), (n), (o), (p) or (q) (to the extent, in the case of Section 7.01(q), securing Indebtedness) above encumber any portion of the Acquired Property.

7.02 Investments. Make any Investments, except:

(a) (i) Investments held by the Borrower or such Subsidiary in the form of cash equivalents and (ii) other Investments (with maturities of not more than three (3) years from the

date of acquisition thereof) made in accordance with the Borrower's investment policies as disclosed to the Administrative Agent, as the same may be duly amended and modified from time to time;

(b) advances to officers, directors and employees of the Borrower and Subsidiaries in an aggregate amount not to exceed \$5,000,000 at any time outstanding, for travel, entertainment, relocation and analogous ordinary business purposes;

(c) (i) Investments of the Borrower and its Subsidiaries in any Subsidiaries that are Guarantors, (ii) Investments of any Subsidiaries of the Borrower that are not Guarantors in other Subsidiaries that are not Guarantors, (iii) Investments of the Borrower and its Subsidiaries in athenahealth Security Corporation made in the ordinary course of business and consistent with past practice and (iv) Investments of the Borrower and other Loan Parties in Subsidiaries that are not Guarantors in an aggregate amount not to exceed \$10,000,000;

(d) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss;

(e) Guarantees permitted by Section 7.03;

(f) Investments consisting of Swap Contracts permitted under Section 7.03(d);

(g) Investments received in satisfaction of judgments or in settlements of Indebtedness or compromises of obligations incurred in the ordinary course of business;

(h) any Investment consisting of prepaid expenses, negotiable instruments held for collection and lease, endorsements for deposit or collection in the ordinary course of business, utility or workers compensation, performance and similar deposits entered into as a result of the operations of the business in the ordinary course of business;

(i) the purchase or other acquisition of (x) all of the Equity Interests in, or substantially all of the property of, any Person that, upon the consummation thereof, will be wholly owned directly by the Borrower or one of more of its wholly-owned Domestic Subsidiaries (other than an Excluded Subsidiary) (including as a result of a merger or consolidation) or (y) Equity Interests in any Person, not constituting all of the Equity Interests of such Person; provided that, with respect to each purchase or other acquisition made pursuant to this Section 7.02(i) (any such purchase or acquisition meeting the following criteria, a "Permitted Acquisition");

(i) any such newly-created or acquired Domestic Subsidiary shall comply with the requirements of Section 6.12;

(ii) the lines of business of the Person to be (or the property of which is to be) so purchased or otherwise acquired or the equity of which is to be acquired shall be substantially the same or substantially related or complementary lines of business as one

or more of the principal businesses of the Borrower and its Subsidiaries in the ordinary course;

(iii) (A) no Event of Default shall have occurred and be continuing immediately before any such purchase or other acquisition, and no Default shall result therefrom, and (B) immediately after giving effect to such purchase or other acquisition, the Borrower and its Subsidiaries shall be in pro forma compliance with all of the covenants set forth in Section 7.11, such compliance to be determined on the basis of the financial information most recently delivered to the Administrative Agent pursuant to Section 6.01(a) or (b) (giving effect to any related Borrowing) as though such purchase or other acquisition had been consummated as of the first day of the fiscal period covered thereby, the calculations for which being reasonably satisfactory to the Administrative Agent;

(iv) the Borrower shall have delivered to the Administrative Agent (for distribution to each Lender):

(A) in the case of any purchase or other acquisition for which the Total Consideration paid by or on behalf of the Borrower and its Subsidiaries exceeds \$30,000,000, the Borrower shall have delivered to the Administrative Agent at least ten (10) Business Days prior to the date on which such purchase or acquisition is to be consummated

(or such shorter period as may be agreed to by the Administrative Agent), written notice of such proposed purchase or acquisition, which notice shall (x) confirm the certification and calculation of the Borrower as to the satisfaction of the conditions set forth in clauses (ii) and (iii) above, and (y) be accompanied by historical financial statements relating to the business of the Person to be acquired and financial projections relating to the Borrower and its Subsidiaries after giving effect to such acquisition; and

(B) such other information as the Administrative Agent may have reasonably requested (to the extent such information is reasonably available to the Borrower or a Subsidiary of the Borrower); and

(j) other Investments not exceeding \$25,000,000 in the aggregate in any fiscal year of the Borrower.

7.03 Indebtedness. Create, incur, assume or suffer to exist any Indebtedness, except:

(a) Indebtedness under the Loan Documents;

(b) Indebtedness outstanding on the date hereof and listed on Schedule 7.03 and any refinancings, refundings, renewals or extensions thereof; provided that (i) the amount of such Indebtedness is not increased at the time of such refinancing, refunding, renewal or extension except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing and by an amount equal to any existing commitments unutilized thereunder and (ii) the terms relating to principal amount, amortization, maturity, collateral (if any) and subordination (if any), and other material terms taken as a whole, of any such refinancing, refunding, renewing or extending Indebtedness,

and of any agreement entered into and of any instrument issued in connection therewith, are no less favorable in any material respect to the Loan Parties or the Lenders than the terms of any agreement or instrument governing the Indebtedness being refinanced, refunded, renewed or extended and the interest rate applicable to any such refinancing, refunding, renewing or extending Indebtedness does not exceed the then applicable market interest rate;

(c) Guarantees of the Borrower or any Guarantor in respect of Indebtedness otherwise permitted hereunder of the Borrower or any other Guarantor;

(d) obligations (contingent or otherwise) of the Borrower or any Subsidiary existing or arising under any Swap Contract, provided that (i) such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person, or changes in the value of securities issued by such Person, and not for purposes of speculation or taking a “market view;” and (ii) such Swap Contract does not contain any provision exonerating the non-defaulting party from its obligation to make payments on outstanding transactions to the defaulting party;

(e) Indebtedness in respect of capital leases, Synthetic Lease Obligations, purchase money obligations and equipment lines of credit for fixed or capital assets within the limitations set forth in Section 7.01(i); provided, however, that the aggregate amount of all such Indebtedness at any one time outstanding shall not exceed \$40,000,000; provided that the aggregate amount of Indebtedness outstanding pursuant to (x) this Section 7.03(e) plus (y) Section 7.03(g) plus (z) Section 7.03(h) shall not exceed \$100,000,000 at any one time;

(f) subordinated Indebtedness (including, without limitation, convertible subordinated Indebtedness) not included within clauses (a) through (e) above, provided that:

(i) prior to incurring such subordinated Indebtedness, the Borrower and its Subsidiaries shall have demonstrated pro forma compliance with all of the covenants contained in Section 7.11 after giving effect to the incurrence of such Indebtedness,

(ii) immediately before and immediately after giving pro forma effect to any the incurrence of such Indebtedness, no Default shall have occurred and be continuing or would result therefrom;

(iii) the terms of such subordinated Indebtedness do not require any prepayment in cash or scheduled cash repayment of such Indebtedness at any time prior to the earlier of (x) the Maturity Date and (y) the payment in full in cash of the Obligations and termination of all Commitments;

(iv) the scheduled maturity of such subordinated Indebtedness shall be after the earlier of (x) the Maturity Date and (y) the payment in full in cash of the Obligations and termination of all Commitments;

(v) the terms of such subordinated Indebtedness shall be no more restrictive than the terms of this Agreement, provided that (A) such indebtedness shall not be cross-defaulted to the terms of this Agreement or the other Loan Documents, but may be cross-

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accelerated to the Loans and other Obligations and (B) any financial covenants set forth in the documents governing such Indebtedness shall be identical (in substance) to the financial covenants set forth in this Agreement, except that compliance thresholds with respect thereto shall be more favorable to the Borrower and its Subsidiaries and shall preserve, on a percentage basis, a customary “cushion” in relation to the compliance thresholds set forth in this Agreement; and

(vi) such subordinated Indebtedness shall otherwise contain (or be subject to) terms and conditions reasonably satisfactory to the Administrative Agent;

(g) other Indebtedness in an aggregate principal amount not to exceed \$50,000,000 at any time outstanding; provided that the aggregate amount of Indebtedness outstanding pursuant to (x) this Section 7.03(g) plus (y) Section 7.03(e) plus (z) Section 7.03(h) shall not exceed \$100,000,000 at any one time;

(h) Indebtedness of any Person that becomes a Subsidiary of the Borrower after the date hereof in accordance with the terms of Section 7.02(i), which Indebtedness is existing at the time such Person becomes a Subsidiary of the Borrower (other than Indebtedness incurred solely in contemplation of such Person’s becoming a Subsidiary of the Borrower); provided that (A) the aggregate principal amount of all such Indebtedness incurred pursuant to this Section 7.03(i) shall not exceed \$50,000,000 at any time outstanding, and (B) no Indebtedness may be incurred pursuant to this Section 7.03(i) in excess of \$35,000,000 unless (x) the terms of such Indebtedness do not require any repayment or prepayment of such Indebtedness at any time prior to the Maturity Date and (y) the terms of such Indebtedness shall be no more restrictive than the terms of this Agreement; provided, further that the aggregate amount of Indebtedness outstanding pursuant to (x) this Section 7.03(h) plus (y) Section 7.03(e) plus (z) Section 7.03(g) shall not exceed \$100,000,000 at any one time;

(i) (i) (A) Indebtedness of the Borrower and its Subsidiaries owed to any Loan Party or (B) Indebtedness of any Loan Party owed to Subsidiaries that are not Loan Parties in an aggregate principal amount not to exceed \$2,000,000 at any one time outstanding, provided that, in each case, (x) such Indebtedness shall be on terms (including subordination terms) reasonably acceptable to the Administrative Agent, and (y) the Investment corresponding to such Indebtedness shall be permitted under Section 7.02(c) and (ii) Indebtedness of any Subsidiaries of the Borrower that are not Guarantors owed to other Subsidiaries that are not Guarantors; and

(j) Indebtedness incurred in connection with the financing of insurance premiums in an aggregate amount at any time outstanding not to exceed the premiums owed under such policy.

7.04 Fundamental Changes. Merge, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except that, so long as no Default exists or would result therefrom:

(a) any Subsidiary may merge with (i) the Borrower, provided that (A) the Borrower shall be the continuing or surviving Person or (B) if the Person surviving any such merger is not

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the Borrower (any such Person, the “Successor Borrower”), (1) the Successor Borrower shall be an entity organized or existing under the Laws of the United States, any state thereof or the District of Columbia, (2) the Successor Borrower shall expressly assume all the obligations of the Borrower under this Agreement and the other Loan Documents to which the Borrower is a party pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent, (3) each Guarantor, unless it is the other party to such merger, shall have by a supplement to the Guaranty confirmed that its Guarantee of the Obligations shall apply to the Successor Borrower’s obligations under this Agreement, and (4) the Successor Borrower shall have delivered to the Administrative Agent (x) an

officer's certificate stating that such merger, such supplement to this Agreement and such supplement to the Guaranty comply with this Agreement, (y) such documents of the type described in Section 4.01(a)(iii) and (a)(iv) and (z) customary opinions relating to such merger, this Agreement and the other documents required hereby as reasonably requested by the Administrative Agent; provided, further, that if the foregoing are satisfied, the Successor Borrower will succeed to, and be substituted for, the Borrower under this Agreement, or (ii) any one or more other Subsidiaries, provided that when any Guarantor is merging with another Subsidiary, a Guarantor shall be the continuing or surviving Person;

(b) any Subsidiary may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to the Borrower or to another Subsidiary; provided that if the transferor in such a transaction is a Guarantor, then the transferee must either be the Borrower or a Guarantor;

(c) any Subsidiary (other than a Loan Party) may dissolve or liquidate, provided that upon any such dissolution or liquidation, all of the assets of such Subsidiary shall be Disposed to the Borrower or another Subsidiary; and

(d) in connection with any transaction permitted under Section 7.02(i) the Borrower and any Guarantor may merge into or consolidate with any other Person or permit any other Person to merge into or consolidate with it; provided, that, in each case, immediately after giving effect thereto (i) in the case of any merger or consolidation to which the Borrower is a party, the Borrower is the surviving Person and (ii) in the case of any such merger or consolidation to which the Guarantor is a party, either (A) the Guarantor shall be the continuing or surviving Person or (B) if the Person surviving any such merger is not the Guarantor (any such Person, the "Successor Guarantor"), (1) the Successor Guarantor shall be a Domestic Subsidiary, (2) the Successor Guarantor shall become a party to the Guaranty pursuant to Section 6.12 and (3) the Successor Guarantor shall have delivered to the Administrative Agent (x) an officer's certificate stating that such merger and joinder to the Guaranty comply with this Agreement, (y) such documents of the type described in Section 4.01(a)(iii) and (a)(iv) and (y) customary opinions relating to such merger and the joinder to the Guaranty as reasonably requested by the Administrative Agent.

7.05 Dispositions. Make any Disposition or enter into any agreement to make any Disposition, except:

(a) Dispositions of obsolete or worn out property, whether now owned or hereafter acquired, in the ordinary course of business;

(b) Ordinary-course-of-business Dispositions of (i) inventory, (ii) cash equivalents (consisting of conversions of such cash equivalents into cash or other cash equivalents), and (iii) overdue accounts receivable in connection with the compromise or collection thereof (and not in connection with any financing transaction);

(c) Ordinary-course-of-business Dispositions consisting of leases and subleases of, granting of customary rights of way, easements, licenses and sublicenses with respect to, real property owned by the Borrower or any Subsidiary, that individually and in the aggregate, do not materially interfere with the ordinary conduct of the business of the Borrower or its Subsidiaries and do not materially detract from the value or the use of the real property which they affect;

(d) (i) Dispositions of equipment or real property to the extent that (A) such property is exchanged for credit against the purchase price of similar replacement property, (B) the proceeds of such Disposition are reasonably promptly applied to the purchase price of such replacement property, or (C) such Disposition is made in the ordinary course of business for consideration at least equal to the fair market value of such property and (ii) Dispositions consisting of leases of real property to the extent that such Disposition is made in the ordinary course of business for consideration at least equal to the fair rental value of such property;

(e) Dispositions of property by any Subsidiary to the Borrower or to any other Subsidiary, provided that if the transferor of such property is a Guarantor, the transferee thereof must either be the Borrower or a Guarantor;

(f) Dispositions permitted by Section 7.04;

(g) non-exclusive licenses of IP Rights in the ordinary course of business and substantially consistent with past practice for terms not exceeding five years; and

(h) Dispositions of minority Equity Interests of any Person acquired pursuant to Section 7.02(i);

(i) any other Disposition to the extent that:

(i) if the property subject to such Disposition shall constitute more than 2% of the consolidated tangible assets of the Borrower and its Subsidiaries (as measured at the time of such Disposition at the end of the most recently ended fiscal quarter for which financial statements have been furnished to the Administrative Agent under Section 6.01(a) or (b) (or, prior to the delivery of any such statements, for the fiscal year ended December 31, 2012)), then the Borrower shall deliver to the Administrative Agent a certificate of a Responsible Officer attaching calculations reasonably satisfactory to the Administrative Agent, (x) demonstrating:

(A) compliance with Section 7.11 on a pro forma basis as at the end of and for the most recently ended period of four fiscal quarters for which financial statements have been furnished to the Administrative Agent under Sections 6.01(a) or (b) (or, prior to the delivery of any such statements, for the fiscal year ended December 31, 2012) (such period, the “Testing Period”) giving effect to

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such Disposition (as if such Disposition had occurred on the first day of the Testing Period), and

(B) that Consolidated EBITDA for the Testing Period, on a pro forma basis after giving effect to such Disposition (as if such Disposition had occurred on the first day of such Testing Period), is not more than 7.5% lower than Consolidated EBITDA for such Testing Period without giving effect to such Disposition, and

(y) certifying that no Default then exists or would result after giving effect to such Disposition; and

(ii) such Dispositions shall not, in the aggregate for all such Dispositions made after the Closing Date, exceed an amount equal to 10% of the Borrower’s consolidated tangible assets as set forth on the Borrower’s most recently (at the time of such Disposition) delivered audited financial statements referred to in Section 6.01(a);

provided, however, that any Disposition pursuant to this Section 7.05 (other than clause (e)) shall be for fair market value.

7.06 Restricted Payments. Declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, or issue or sell any Equity Interests, except that:

(a) each Subsidiary may make Restricted Payments to the Borrower, the Guarantors and any other Person that owns an Equity Interest in such Subsidiary, ratably according to their respective holdings of the type of Equity Interest in respect of which such Restricted Payment is being made;

(b) the Borrower and each Subsidiary may declare and make dividend payments or other distributions payable solely in the common stock or other common Equity Interests of such Person;

(c) the Borrower and each Subsidiary may purchase, redeem or otherwise acquire Equity Interests issued by it with the proceeds received from the substantially concurrent issue of new shares of its common stock or other common Equity Interests;

(d) so long as no Default shall have occurred and be continuing or would result therefrom, the Borrower may purchase, redeem or otherwise acquire for cash Equity Interests issued by it if the Borrower shall have delivered to the Administrative Agent, at least fifteen (15) days prior to the making of such Restricted Payment, a certificate of a Responsible Officer (x) certifying that, immediately before and immediately after giving pro forma effect to such purchase, redemption or acquisition (including borrowings made to fund such purchase, redemption or acquisition), no Default shall have occurred and be continuing, (y) demonstrating (in detail reasonably satisfactory to the Administrative Agent) that the Consolidated Leverage Ratio as of the last day of the fiscal quarter most recently then ended, calculated on a pro forma basis, giving effect to any Borrowings made to fund such purchase, redemption or acquisition, is at least 0.25x less than the ratio required by Section 7.11 as of such date;

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(e) any Subsidiary may issue its Equity Interests to the Borrower or to any other Subsidiary, provided that if the issuer of such Equity Interests is a Guarantor, the issuance thereof must be either made to the Borrower or a Guarantor;

(f) the Borrower may issue and sell its common Equity Interests; and

(g) so long as no Default shall have occurred and be continuing or would result therefrom, the Borrower may declare and make cash dividend payments or other similar cash Restricted Payments to the holders of its Equity Interests, ratably according to their respective holdings of the type of Equity Interest in respect of which such Restricted Payment is being made, provided that (i) such Restricted Payments made in any fiscal year shall not exceed 20% of the Consolidated Net Income and (ii) the Borrower shall have delivered to the Administrative Agent, prior to the making of such Restricted Payment, a certificate of a Responsible Officer (x) certifying that, immediately before and immediately after giving pro forma effect to such Restricted Payment (including borrowings made to fund such Restricted Payment), no Default shall have occurred and be continuing, and (y) demonstrating (in detail reasonably satisfactory to the Administrative Agent) compliance with each of the financial covenants set forth in Section 7.11 as of the last day of the fiscal quarter most recently then ended (giving pro forma effect to such Restricted Payment (including any Borrowings made to fund such Restricted Payment), as if such Restricted Payment was made as of the first day of the relevant testing period).

7.07 Change in Nature of Business. Engage in any material line of business that is not substantially the same as or substantially related to or complementary of those lines of business conducted by the Borrower and its Subsidiaries on the date hereof.

7.08 Transactions with Affiliates. Enter into any transaction of any kind with any Affiliate of the Borrower, whether or not in the ordinary course of business, other than on fair and reasonable terms substantially as favorable to the Borrower or such Subsidiary as would be obtainable by the Borrower or such Subsidiary at the time in a comparable arm's length transaction with a Person other than an Affiliate, provided that the foregoing restriction shall not apply to transactions between or among the Borrower and any Guarantor or between and among any Guarantors.

7.09 Burdensome Agreements. Enter into any Contractual Obligation (other than this Agreement or any other Loan Document) that (a) limits the ability (i) of any Subsidiary to make Restricted Payments to the Borrower or any Guarantor or to otherwise transfer property to the Borrower or any Guarantor, (ii) of any Subsidiary to Guarantee the Indebtedness of the Borrower or (iii) of the Borrower or any Subsidiary to create, incur, assume or suffer to exist Liens on property of such Person; provided, however, that this clause (iii) shall not prohibit any negative pledge incurred or provided in favor of any holder of Indebtedness permitted under Section 7.03(e), Section 7.03(h) or Section 7.03(i) solely to the extent any such negative pledge relates to the property financed by or securing such Indebtedness; or (b) requires the grant of a Lien to secure an obligation of such Person if a Lien is granted to secure another obligation of such Person.

7.10 Use of Proceeds.

(a) Use the proceeds of any Credit Extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the FRB) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose, in each case so as to result in a violation of Regulation U.

(b) Directly or indirectly, use the proceeds of any Loan, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other individual or entity, to fund any activities of or business with any individual or entity, or in any Designated Jurisdiction, that, at the time of such funding, is the subject of Sanctions, or in any other manner that will result in a violation by any individual or entity (including any individual or entity participating in the transaction, whether as Lender, Arranger, Administrative Agent, L/C Issuer, Swing Line Lender, or otherwise) of Sanctions.

7.11 Financial Covenants.

(a) Consolidated Fixed Charge Coverage Ratio. Permit the Consolidated Fixed Charge Coverage Ratio as of the end of any fiscal quarter of the Borrower to be less than 1.50 to 1.00.

(b) Consolidated Leverage Ratio. Permit the Consolidated Leverage Ratio as of the end of any fiscal quarter of the Borrower to be greater than 4.00 to 1.00.