

(G) such Incremental Equivalent Debt may not have (x) obligors or contingent obligors that were not obligors or contingent obligors under the Facilities or (y) security in any case more extensive than that of the Facilities (including, for the avoidance of doubt, that such Incremental Equivalent Debt may not have security on any assets that do not constitute Collateral); provided that notwithstanding the foregoing clause (y), cash and Cash Equivalents may be pledged to secure reimbursement obligations in respect of letters of credit under any such Incremental Equivalent Debt consisting of a revolving credit facility;

(H) the other terms and conditions applicable to such Incremental Equivalent Debt shall not be, when taken as a whole, materially more favorable (as determined in good faith by the Borrower), to the holders of such Indebtedness than those applicable under this Agreement (except for (i) financial maintenance covenants applicable to a revolving credit facility and (ii) covenants or other provisions applicable only to periods after the Latest Maturity Date or that are also incorporated into the Loan Documents for the benefit of all Lenders in respect of Loans and Commitments outstanding at the time such Incremental Equivalent Debt is incurred) or are otherwise on current market terms for such type of Indebtedness; provided that a certificate of a Responsible Officer of the Borrower delivered to the Agent at least five (5) Business Days prior to the incurrence of such Incremental Equivalent Debt, together with a reasonably detailed description of material terms and conditions of such Incremental Equivalent Debt or drafts of the documentation related thereto, stating that the Borrower has determined in good faith that such terms and conditions satisfy the foregoing requirement in this clause (H) shall be conclusive evidence that such terms and conditions satisfy the foregoing requirement unless the Agent notifies the Borrower within such five (5) Business Day period that it disagrees with such determination (including a reasonable description of the basis upon which it disagrees); and

(I) no Event of Default shall have occurred and be continuing or would exist immediately after giving effect to the incurrence of such Incremental Equivalent Debt; provided that in the case of Incremental Equivalent Debt in the form of revolving credit loans this clause (I) shall be tested and apply only at the time of the effectiveness of the related revolving credit commitments.

(m) to the extent constituting Indebtedness, contingent obligations arising under indemnity agreements to title insurance companies to cause such title insurers to issue title insurance policies in the Ordinary Course of Business with respect to the real property of the Borrower or any Restricted Subsidiary;

(n) to the extent constituting Indebtedness, (i) unfunded pension liabilities and other employee benefit plan obligations and liabilities to the extent they are permitted to remain unfunded under applicable law and (ii) deferred compensation or similar arrangements payable to future, present or former directors, officers, employees, members of management or consultants of the Borrower and the Restricted Subsidiaries;

(o) Indebtedness in respect of repurchase agreements constituting Cash Equivalents;

(p) Indebtedness consisting of promissory notes issued by the Borrower or any Restricted Subsidiary to future, present or former directors, officers, members of management, employees or consultants of the Borrower or any of the Subsidiaries or their respective estates, executors, administrators, heirs, family members, legatees, distributees, spouses or former spouses, domestic partners or former domestic partners to finance the purchase or redemption of Equity Interests of the Borrower permitted by Section 6.05;

(q) cash management obligations and Indebtedness incurred by the Borrower or any Restricted Subsidiary in respect of netting services, overdraft protections, commercial credit cards, stored value cards, purchasing cards and treasury management services, automated clearing-house arrangements, employee credit card programs, controlled disbursement, ACH transactions, return items, interstate deposit network services, dealer incentive, supplier finance or similar programs, Society for Worldwide Interbank Financial Telecommunication transfers, cash pooling and operational foreign exchange management and similar arrangements, in each case entered into in the Ordinary Course of Business in connection with cash management, including among the Borrower and the Restricted Subsidiaries, and deposit accounts;

(r) (i) Indebtedness consisting of the financing of insurance premiums and (ii) take-or-pay obligations constituting Indebtedness of the Borrower or any Restricted Subsidiary, in each case, entered into in the Ordinary Course of Business;

(s) 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;

(t) Indebtedness of a Receivables Subsidiary pursuant to any Permitted Receivables Facility;

(u) other Indebtedness of the Borrower and the Restricted Subsidiaries; provided that the aggregate principal amount of Indebtedness permitted by this clause (u) shall not exceed the greater of \$75.0 million and 65.0% of LTM EBITDA; provided, further that the aggregate amount of all such Indebtedness incurred by Restricted Subsidiaries that are not Loan Parties pursuant to this clause (u), when combined with the aggregate principal amount of Indebtedness incurred by (i) Restricted Subsidiaries that are not Loan Parties pursuant to Section 6.08(g) and (ii) Foreign Subsidiaries pursuant to Section 6.08(k), shall not exceed the greater of (1) \$40.0 million and (2) 34% of LTM EBITDA; and

(v) Indebtedness in the form Permitted Convertible Notes that are issued in one or more underwritten public offerings in an aggregate principal amount at any time outstanding not exceeding \$800.0 million.

The accrual of interest, the accretion of accreted value and the payment of interest in the form of additional Indebtedness shall not be deemed to be an incurrence of Indebtedness for purposes of this Section 6.08. The principal amount of any non-interest bearing Indebtedness or other discount security constituting Indebtedness at any date shall be the principal amount thereof that would be shown on a balance sheet of the Borrower dated such date prepared in accordance with GAAP.

For purposes of determining compliance with this Section 6.08, in the event that an item of Indebtedness meets the criteria of more than one of the categories of Indebtedness described in described in Section 6.08, the Borrower shall, in its sole discretion, classify and reclassify or later divide, classify or reclassify such item of Indebtedness (or any portion thereof) and will only be required to include the amount and

type of such Indebtedness in one or more of the above clauses; provided that all Indebtedness outstanding under the Loan Documents will at all times be deemed to be outstanding in reliance only on the exception in Section 6.08(a).

Section 6.09. Other Indebtedness and Agreements. (a) The Borrower will not (nor will it permit any of the Restricted Subsidiaries to) effect (i) any waiver, supplement, modification or amendment of any indenture, instrument or agreement pursuant to which any Indebtedness that is expressly subordinated in right of payment to the obligations of the Loan Parties in respect of the Loan Documents or any Indebtedness that is secured by a junior-priority security interest in any Collateral securing the Loans (collectively, together with any Permitted Refinancing of the foregoing, “Junior Financing”), in each case, if the effect of such waiver, supplement, modification or amendment would be adverse to the Lenders in any material respect (as determined in good faith by the Borrower) or (ii) any waiver, supplement, modification or amendment of its certificate of incorporation, by-laws, operating, management or partnership agreement or other organizational documents, to the extent any such waiver, supplement, modification or amendment would be adverse to the Lenders in any material respect (as determined in good faith by the Borrower).

(b) The Borrower will not (nor will it permit any of the Restricted Subsidiaries to) prepay, redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof in any manner any Junior Financing (it being understood and agreed that payments of regularly scheduled interest and principal, mandatory prepayments subject to the terms of any applicable intercreditor or subordination agreement, and “AHYDO” payments shall be permitted) or make any payment in violation of any subordination terms of any Junior Financing (each, a “Restricted Debt Payment”), except: (i) the refinancing of any Junior Financing with any Permitted Refinancing thereof; (ii) the conversion or exchange of any Junior Financing to any Equity Interests (other than Disqualified Equity Interests) of the Borrower, (iii) the prepayment of Indebtedness of the Borrower or any Restricted Subsidiary to the Borrower or any Restricted Subsidiary, (iv) the prepayment, redemption, purchase, defeasement or other satisfaction prior to the scheduled maturity of any Junior Financing, so long as after giving *pro forma* effect thereto and the *pro forma* adjustments described in Section 1.06, (A) the Leverage Ratio is equal to or less than 3.00 to 1.00 and (B) no Event of Default shall have occurred and be continuing or would result therefrom; and (v) the prepayment, redemption, purchase, defeasement or other satisfaction prior to the scheduled maturity of any Junior Financing in an aggregate amount not to exceed the portion, if any, of the Available Amount as of such time that the Borrower elects to apply to this Section 6.09(b)(v); provided that, in the case of this Section 6.09(b)(v), (1) before and after giving effect to any such prepayment, redemption, purchase, defeasement or other satisfaction, no Event of Default shall have occurred and be continuing or would result therefrom and (2) after giving effect to any such prepayment, redemption, purchase, defeasement or other satisfaction, the Leverage Ratio is equal to or less than 4.00 to 1.00 on a *pro forma* basis after giving effect to such prepayment, redemption, purchase, defeasement or other satisfaction and the *pro forma* adjustments described in Section 1.06.

(c) The Borrower will not (nor will it permit any of the Restricted Subsidiaries to) enter into or permit to exist any contractual obligation (other than this Agreement or any other Loan Document) that limits the ability of any of the Restricted Subsidiaries to make Restricted Payments to the Borrower or any Subsidiary Guarantor or to otherwise transfer property to or invest in the Borrower or any Subsidiary Guarantor, except for (i) any agreement in effect on the Closing Date and described on Schedule 6.09, (ii) any agreement in effect at the time any Person becomes a Restricted Subsidiary, so long as such agreement was not entered into solely in contemplation of such Person becoming a Restricted Subsidiary, (iii) any agreement representing Indebtedness of a Restricted

Subsidiary which is not a Loan Party which is permitted by Section 6.08, (iv) any agreement in connection with a Disposition permitted hereunder, (v) customary provisions in partnership agreements, limited liability company governance documents, joint venture agreements or other similar agreements that restrict the transfer of assets of, or ownership interests in, the relevant partnership, limited liability company, joint venture or similar Person, (vi) customary provisions restricting assignment of any agreement entered into in the Ordinary Course of Business of the Borrower and the Restricted Subsidiaries, (vii) customary provisions restricting the subletting or assignment of any lease governing a leasehold interest, (viii) customary restrictions contained in Indebtedness permitted under this Agreement to the extent no more restrictive, taken as a whole, to the Borrower and the Restricted Subsidiaries in any material respect than the covenants contained in this Agreement (as reasonably determined by the Borrower), (ix) restrictions regarding licenses or sublicenses by the Borrower and the Restricted Subsidiaries of IP Rights in the Ordinary Course of Business of the Borrower and the Restricted Subsidiaries (in which case such restriction shall relate only to such IP Rights), (x) provisions in agreements or instruments that prohibit the payment of dividends or the making of other distributions with respect to any class of Equity Interests of a Person other than on a *pro rata* basis to the holders thereof, (xi) restrictions imposed by applicable law and (xii) any restrictions and conditions imposed by any amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing of any contract, instrument or obligation referred to in clauses (i) through (xi) above; provided that such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing is, in the good faith judgment of the Borrower, no more restrictive with respect to such restrictions taken as a whole than those in existence prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

Section 6.10. Fundamental Changes. The Borrower will not (nor will it permit any of the Restricted Subsidiaries to) merge, dissolve, liquidate, amalgamate, 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:

(a) any Restricted Subsidiary may merge, amalgamate or consolidate with (i) the Borrower (including a merger, the purpose of which is to reorganize the Borrower into a new jurisdiction in any State of the United States of America); provided that the Borrower shall be the continuing or surviving Person or the surviving Person shall be a Domestic Restricted Subsidiary and shall expressly assume all Obligations of the Borrower pursuant to documents reasonably acceptable to the Agent or (ii) any other Restricted Subsidiary; provided that when any Subsidiary Guarantor is merging, amalgamating or consolidating with another Subsidiary (A) the Subsidiary Guarantor shall be the continuing, resulting or surviving Person or the surviving Person shall substantially concurrently become a Subsidiary Guarantor, (B) to the extent constituting an Investment (including in each case where a non-Loan Party is the continuing, resulting or surviving Person), such Investment must be a permitted Investment in accordance with Section 6.07 (other than Section 6.07(u)) and (C) to the extent constituting a Disposition, such Disposition must be permitted hereunder;

(b) (i) any Restricted Subsidiary that is not a Loan Party may merge, amalgamate or consolidate with or into any other Restricted Subsidiary that is not a Loan Party and (ii) any Restricted Subsidiary may liquidate or dissolve if the Borrower determines in good faith that such action is in the best interest of the Borrower and the Restricted Subsidiaries and is not disadvantageous to the Lenders in any material respect (it being understood and agreed that, in the case of any dissolution of any Subsidiary that is a Subsidiary Guarantor, such Subsidiary Guarantor shall at or

before the time of such dissolution transfer its assets to another Loan Party unless such Disposition of assets is otherwise permitted hereunder);

(c) any Restricted Subsidiary may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to (x) if such Restricted Subsidiary is a Loan Party, a Loan Party and (y) if such Restricted Subsidiary is not a Loan Party, the Borrower or any Restricted Subsidiary;

(d) any Restricted Subsidiary may merge, dissolve, liquidate, amalgamate or consolidate with or into another Person in order to effect a Disposition permitted pursuant to Section 6.11 (other than Section 6.11(b)(i)) or a Restricted Payment permitted pursuant to Section 6.05 (other than Section 6.05(b)); and

(e) any Investment permitted by Section 6.07 may be structured as a merger, consolidation or amalgamation.

Section 6.11. Dispositions. The Borrower will not (nor will it permit any of the Restricted Subsidiaries to) make any Disposition, except:

(a) (i) Dispositions of obsolete, surplus or worn out property, whether now owned or hereafter acquired, in the Ordinary Course of Business of the Borrower and the Restricted Subsidiaries and (ii) Dispositions of property no longer used or useful in or economically practicable to maintain in the conduct of the business of the Borrower or any Restricted Subsidiary;

(b) (i) Dispositions permitted by Section 6.10 (other than Section 6.10(d)), (ii) Investments permitted by Section 6.07 (other than Section 6.07(f) or 6.07(u)), (iii) Restricted Payments permitted by Section 6.05 (other than Section 6.05(b)) and (iv) Liens permitted by Section 6.01 (other than Section 6.01(i));

(c) Dispositions of inventory (including on an intercompany basis), cash and Cash Equivalents in the Ordinary Course of Business;

(d) licenses, sublicenses, leases or subleases (or other grants of rights to use or exploit) of IP Rights (i) existing on the date hereof, (ii) between or among the Borrower and the Restricted Subsidiaries or between or among the Restricted Subsidiaries or (iii) granted to others in the Ordinary Course of Business not interfering in any material respect with the business of the Borrower and the Restricted Subsidiaries, taken as a whole;

(e) Disposition of property (i) between Loan Parties, (ii) between Restricted Subsidiaries (other than Loan Parties), (iii) by Restricted Subsidiaries that are not Loan Parties to any Loan Party or (iv) by Loan Parties to any Subsidiary that is not a Loan Party; provided that with respect to the foregoing clause (iv), (A) the portion (if any) of any such Disposition made for less than fair market value and (B) any noncash consideration received in exchange for any such Disposition, shall in each case constitute an Investment in such Subsidiary (and such Disposition shall be permitted only if such Investment is permitted by Section 6.07 (other than Section 6.07(f));

(f) Dispositions in the Ordinary Course of Business consisting of (i) the termination of leasehold or other non-fee interests in real property and (ii) leases, subleases, licenses or sublicenses of property or other grants in real property permitted pursuant to clause (e) of the definition of Permitted Liens;

(g) transfers of equipment, fixed assets or real property (including any improvements thereon) subject to any event that gives rise to the receipt by the Borrower and the Restricted Subsidiaries of any casualty insurance proceeds or condemnation awards in respect thereof to replace, restore or repair, or compensate for the loss of, such equipment, fixed assets or real property;

(h) any other Dispositions of assets for fair market value; provided that (i) at the time of such Disposition (other than any such Disposition made pursuant to a legally binding commitment entered into at a time when no Event of Default has occurred and is continuing or would result therefrom), no Event of Default shall have occurred and be continuing or would result therefrom, (ii) at least 75% of the total consideration received by the Borrower and the Restricted Subsidiaries for any such Disposition with a fair market value in excess of \$5.0 million is in the form of (x) cash (provided, however, that for the purposes of this clause (ii)(x), any liabilities (as shown on the Borrower's most recent balance sheet provided hereunder or in the footnotes thereto) of the Borrower or such Restricted Subsidiary, other than liabilities that are by their terms subordinated to the payment in cash of the Obligations, that are assumed by the transferee with respect to the applicable Disposition and for which the Borrower and all of its Restricted Subsidiaries shall have been validly released by all applicable creditors in writing shall be deemed to be cash), (y) Cash Equivalents or (z) Designated Non-Cash Consideration; provided, however, that the fair market value of such Designated Non-Cash Consideration shall not, when taken together with all other Designated Non-Cash Consideration outstanding at the time of such Disposition, exceed the greater of \$10.0 million and 10% of LTM EBITDA (with the fair market value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value), and (ii) the requirements of Section 2.10(b), to the extent applicable, are complied with in connection therewith;

(i) Dispositions of non-core assets (which may include real property) acquired in connection with any Permitted Acquisition or other Investment permitted by Section 6.07 (other than Section 6.07(f)) within 365 days after the consummation of such Permitted Acquisition or other Investment; provided that (i) the aggregate amount of such sales shall not exceed 25% of the fair market value of the acquired entity or business and (ii) each such sale is on an arms'-length transaction and the Borrower or the respective Restricted Subsidiary receives at least fair market value in exchange therefor;

(j) any individual Disposition or series of related Dispositions in the Ordinary Course of Business of the Borrower and the Restricted Subsidiaries having a fair market value not in excess of \$10.0 million; provided that the aggregate amount of Dispositions pursuant to this clause (j) shall not exceed \$20.0 million;

(k) Dispositions of Investments in joint ventures to the extent required by, or made pursuant to, buy/sell arrangements between the joint venture parties set forth in the joint venture agreement or similar binding agreements entered into with respect to such Investment in such joint venture;

(l) Dispositions of Equity Interests deemed to occur upon the exercise of stock options, warrants or other convertible securities or settlement of restricted stock units if such Equity Interests represent (i) a portion of the exercise price thereof or (ii) withholding incurred in connection with such exercise or settlement;

(m) sales of receivables pursuant to any Permitted Receivables Facility;

(n) Asset Swaps; provided that the Leverage Ratio is equal to or less than 3.00 to 1.00 on a pro forma basis after giving effect to such Asset Swap and the pro forma adjustments described in Section 1.06;

(o) (i) Dispositions of Investments and accounts receivable in connection with the collection, settlement or compromise thereof in the Ordinary Course of Business or (ii) any surrender or waiver of contract rights pursuant to a settlement, release, recovery on or surrender of contract, tort or other claims of any kind;

(p) Dispositions in the Ordinary Course of Business consisting of (i) IP Rights (including the lapse or abandonment of IP Rights) which, in the reasonable good faith determination of the Borrower, are not material to the conduct of the business of the Borrower and the Subsidiaries, (ii) licensing, sublicensing and cross-licensing arrangements involving any technology or other intellectual property or general intangibles of the Borrower or the Subsidiaries and (iii) the termination of any licenses, sublicenses, leases or subleases;

(q) terminations, unwinding or settlement of any Hedge Agreement or Permitted Call Spread Hedge Agreement;

(r) Dispositions of the Equity Interests of, or the assets or securities of, Unrestricted Subsidiaries; and

(s) Dispositions constituting any part of a reorganization and other activities related to tax planning or tax reorganization that do not impair the security interests granted to the Collateral Agent for the benefit of the Secured Parties and are otherwise not materially adverse to the Lenders and after giving effect to such Investment, reorganization or other activity, the Borrower and the Restricted Subsidiaries comply with Section 5.10.

Section 6.12. Designation of Subsidiaries. The Borrower will not (nor will it permit any of the Restricted Subsidiaries to) designate any Subsidiary as an Unrestricted Subsidiary or any Unrestricted Subsidiary as a Restricted Subsidiary, except that the Borrower may designate any Subsidiary as an Unrestricted Subsidiary or any Unrestricted Subsidiary as a Restricted Subsidiary; provided that (a) immediately before and after such designation, no Event of Default shall have occurred and be continuing or would result therefrom; (b) the Leverage Ratio shall be equal to or less than 4.00 to 1.00 on a pro forma basis after giving effect to such designation and the pro forma adjustments described in Section 1.06; (c) no Subsidiary may be designated as an Unrestricted Subsidiary for purposes of this Agreement if it is a “Restricted Subsidiary” for the purpose of any Incremental Equivalent Debt, Refinancing Notes, any Refinancing Junior Loans or any Permitted Refinancing of any of the foregoing, unless such Subsidiary is substantially contemporaneously also designated as an “Unrestricted Subsidiary” under the applicable Indebtedness; (d) the designation of any Subsidiary as an Unrestricted Subsidiary shall constitute an Investment by the Borrower in such Subsidiary at the date of designation in an amount equal to the fair market value of the Borrower’s and the Restricted Subsidiaries’ Investments therein (as reasonably determined by the Borrower in good faith); and (e) the designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall be deemed a new incurrence at the time of designation of any Investment, Indebtedness and Liens of such Subsidiary existing at such time and a return on any Investment by the Borrower or any Restricted Subsidiary in Unrestricted Subsidiaries, in

each case in an amount equal to the fair market value as determined in good faith by the Borrower at the date of such designation of the Borrower's or its respective Subsidiary's Investment in such Subsidiary.

Section 6.13. Transactions with Affiliates. The Borrower will not, nor will they permit any Restricted Subsidiary to, sell, lease or otherwise transfer any property or assets to, or purchase, lease or otherwise acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates involving aggregate payments, for any such transaction or series of related transactions, in excess of \$5.0 million, except:

(a) transactions (i) that are at fair and reasonable prices and on fair and reasonable terms and conditions not materially less favorable to the Borrower or such Restricted Subsidiary than could be obtained on an arm's-length basis from unrelated third parties or (ii) for which the Borrower has delivered to the Administrative Agent a letter from an independent financial advisor stating that such transaction is fair from a financial point of view;

(b) transactions between or among the Borrower and Restricted Subsidiaries not involving any other Affiliate (including any entity that becomes a Restricted Subsidiary as a result of such transaction);

(c) any Restricted Payment permitted by Section 6.05;

(d) the payment of reasonable and customary fees and expenses, and the provision of customary indemnification to directors, officers, employees, members of management and consultants of the Borrower and the Subsidiaries;

(e) sales or issuances of Equity Interests (other than Disqualified Equity Interests) of the Borrower that are otherwise permitted or not restricted by the Loan Documents;

(f) loans and other transactions by and among the Borrower and/or the Restricted Subsidiaries to the extent permitted under this Article VI;

(g) employment and severance arrangements (including options to purchase Equity Interests of the Borrower, restricted stock plans, long-term incentive plans, stock appreciation rights plans, participation plans or similar employee benefits plans) between the Borrower and any Restricted Subsidiary and their directors, officers, employees, members of management and consultants in the ordinary course of business;

(h) the existence of, and the performance of obligations of the Borrower or any of the Restricted Subsidiaries under the terms of any agreement in existence or contemplated as of the Closing Date and identified on Schedule 6.13, as these agreements may be amended, restated, amended and restated, supplemented, extended, renewed or otherwise modified from time to time; provided, however, that any future amendment, restatement, amendment and restatement, supplement, extension, renewal or other modification entered into after the Closing Date will be permitted to the extent that its terms are not more disadvantageous in any material respect, taken as a whole, to the Lenders than the terms of the agreements on the Closing Date;

(i) any agreement between any Person and an Affiliate of such Person existing at the time such Person is acquired by or merged into the Borrower or the Restricted Subsidiaries pursuant to the terms of this Agreement; provided that such agreement was not entered into in contemplation of such acquisition or merger, or any amendment thereto (so long as any such