

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

**Form S-1**  
REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

**HSN, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**5940**  
(Primary Standard Industrial  
Classification Code Number)

**26-2590893**  
(I.R.S. Employer  
Identification No.)

**1 HSN Drive**  
**St. Petersburg, Florida 33729**  
**(727) 872-1000**  
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

**James Warner**  
**Executive Vice President and General Counsel**  
**HSN, Inc.**  
**1 HSN Drive**  
**St. Petersburg, Florida 33729**  
**(727) 872-1000**  
(Name, address, including zip code, and telephone number, including area code, of agent for service)

*With a copy to:*

**Pamela S. Seymon**  
**Wachtell, Lipton, Rosen & Katz**  
**51 West 52<sup>nd</sup> Street**  
**New York, NY 10019**  
**(212) 403-1000**

**Approximate date of commencement of proposed sale to the public:** As soon as practicable after this registration statement becomes effective.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

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

Large accelerated filer  Accelerated filer  Non-accelerated filer  Smaller reporting company   
(Do not check if a smaller reporting company)

**CALCULATION OF REGISTRATION FEE**

Title of Each Class of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price Per Unit	Proposed Maximum Aggregate Offering Price(2)	Amount of Registration Fee
Common stock, par value \$0.01 per share	73,281,067 shares	N/A	\$2,986,371	\$117.36

- (1) This registration statement relates to shares of common stock, par value \$0.01 per share, of HSN, Inc. (the "Registrant"), which will be distributed pursuant to a spin-off transaction to the holders of common stock and Class B common stock of IAC/InterActiveCorp ("IAC"). The amount of the Registrant's common stock to be registered represents the sum of (i) 55,817,094 shares of common stock to be distributed to the holders of IAC common stock and IAC Class B common stock upon consummation of the spin-off, (ii) up to 12,363,973 shares of common stock to be issued in respect of certain restricted stock units or stock options, in each case, previously issued pursuant to IAC's equity incentive plans and that will be converted, in whole or in part, in connection with the spin-off into stock options and restricted stock units to be issued under the HSN, Inc. 2008 Stock and Annual Incentive Plan (the "Stock and Annual Incentive Plan"), (iii) up to 5,000,000 shares of common stock issuable in respect of stock options, restricted stock units and other equity-based awards that may be granted from time to time following the spin-off pursuant to the Stock and Annual Incentive Plan and (iv) up to 100,000 shares of common stock issuable pursuant to the HSN, Inc. Deferred Compensation Plan for Non-Employee Directors. To the extent additional shares of common stock may be issued or become issuable as a result of a stock split, stock dividend, or other distribution involving the common stock while this registration statement is in effect, this registration statement hereby is deemed to cover all such additional shares of common stock in accordance with Rule 416 under the Securities Act of 1933. In connection with the spin-off, one fifth of one share of the Registrant's common stock will be distributed for each share of IAC common stock or Class B common stock outstanding on the record date for the spin-off and each share of IAC common stock issued in connection with the exercise of IAC stock options and the settlement of IAC restricted stock units between the record date for the spin-off and the date of the spin-off. Because it is not possible to accurately state the number of shares of IAC common stock and Class B common stock that will be outstanding as of the spin-off date, this calculation is based on shares of IAC common stock and IAC Class B common stock outstanding as of April 30, 2008, options to purchase the number of shares of IAC common stock and IAC restricted units in respect of shares of IAC common stock as of December 31, 2007 that may settle prior to the date of the spin-off.
- (2) Estimated solely for the purpose of determining the registration fee pursuant to Rule 457(f)(2) and Rule 457(h)(1) under the Securities Act, based on the book value of the common stock as of March 31, 2008, the most recent practicable date.
- (3) Calculated by multiplying 0.00003930 by the proposed maximum aggregate offering price.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to Section 8(a), may determine.

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#### EXPLANATORY NOTE

This Registration Statement has been prepared on a prospective basis on the assumption that, among other things, the spin-off of the Registrant from IAC/InterActiveCorp (as described in the Prospectus which is a part of this Registration Statement) and the related transactions contemplated to occur prior to or contemporaneously with the spin-off will be consummated as contemplated by the Prospectus. There can be no assurance, however, that any or all of such transactions will occur or will occur as so contemplated. Any significant modifications to or variations in the transactions contemplated will be reflected in an amendment or supplement to this Registration Statement.

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The information in this prospectus is not complete and may be changed. We may not issue these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.

Subject to Completion, dated August 1, 2008

## PROSPECTUS

### HSN, INC.

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#### 73,281,067 Shares of Common Stock, Par Value \$0.01 Per Share

This prospectus is being furnished to you as a stockholder of IAC in connection with the spin-off by IAC/InterActiveCorp to its stockholders of HSN, Inc. ("HSNi" or the "Company"), Interval Leisure Group, Inc. ("ILG"), Ticketmaster and Tree.com, Inc. ("Tree.com") (each, a "Spinco" and collectively, the "Spinco's"), each a wholly-owned subsidiary of IAC that at the time of its spin-off will hold directly or indirectly the assets and liabilities associated with the following businesses:

- HSNi: HSN TV, *HSN.com*, and the Cornerstone Brands, Inc. portfolio of catalogs, websites and retail locations;
- ILG: the businesses currently comprising IAC's Interval segment;
- Ticketmaster: Ticketmaster's primary domestic and international operations, as well as certain investments in unconsolidated affiliates; and
- Tree.com: the businesses currently comprising IAC's Lending and Real Estate segments.

To implement the spin-offs, IAC, the Company and the other Spinco's will effect a series of restructuring transactions following which IAC will distribute all of the outstanding shares of common stock of the Spinco's on a pro rata basis to the holders of IAC common stock and/or Class B common stock. Each of you, as a holder of IAC common stock and/or Class B common stock, will receive one-fifth of a share of common stock of HSNi, one-fifth of a share of common stock of ILG, one-fifth of a share of common stock of Ticketmaster and one-thirtieth of a share of common stock of Tree.com for every share of IAC common stock and/or Class B common stock that you held at the close of business on [ • ], 2008, the record date for the spin-offs. The spin-offs will be effective as of [ • ], 2008, unless otherwise determined by IAC's board of directors.

Immediately after the spin-off of HSNi is completed, HSNi will be a separate public company. All of the outstanding shares of the common stock of HSNi are currently owned by IAC. Accordingly, there currently is no public trading market for the common stock of HSNi. HSNi has been approved to list its common stock under the ticker symbol "HSNI" on the NASDAQ Stock Market.

**No vote of IAC stockholders is required in connection with the HSNi spin-off.** Neither IAC nor the Company is asking you for a proxy, and you are not requested to send us a proxy. IAC stockholders will not be required to pay any consideration for the shares of common stock of the Company they receive in the spin-off, and they will not be required to surrender or exchange shares of their IAC common stock and/or Class B common stock or take any other action in connection with the spin-off.

In reviewing this prospectus, you should carefully consider the matters described under the caption "Risk Factors" beginning on page 8 of this prospectus.

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**NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED OF THESE SECURITIES OR PASSED UPON THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.**

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The date of this prospectus is [ • ], 2008.

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This prospectus describes the businesses of the Company as though they were its businesses for all historical periods described. However, the Company is a newly formed entity that has not conducted any operations prior to the spin-off and instead will have had such businesses transferred to it prior to the spin-off. References in this prospectus to the historical assets, liabilities, products, businesses or activities of the businesses of the Company are intended to refer to the historical assets, liabilities, products, businesses or activities of the relevant businesses as those businesses were conducted as part of IAC prior to the spin-off. Following the spin-off, the Company will be a separate, publicly traded company, and IAC will have no continuing stock ownership in the Company. The historical combined financial information of the Company as part of IAC contained in this prospectus is not necessarily indicative of its future financial position, future results of operations or future cash flows, nor does it reflect what the financial position, results of operations or cash flows of the Company would have been had it been operated as a stand-alone company during the periods presented.

You should not assume that the information contained in this prospectus is accurate as of any date other than the date set forth on the cover. Changes to the information contained in this prospectus may occur after that date and the Company does not undertake any obligation to update the information unless required to do so by law.

## SUMMARY

This summary highlights selected information from this prospectus and may not contain all the information that may be important to you. Accordingly, you are encouraged to read carefully the entire prospectus, its annexes and the documents filed as exhibits to the Company's registration statement on Form S-1, of which this prospectus is a part.

Except as otherwise indicated or unless the context otherwise requires, (i) "Spinco" refers to any of HSNi, ILG, Ticketmaster and Tree.com and their respective subsidiaries, (ii) "Spincos" refers to all of the foregoing collectively, (iii) "IAC/InterActiveCorp" and "IAC" refer to IAC/InterActiveCorp and its consolidated subsidiaries other than, for all periods following the spin-offs, the Spincos, (iv) "HSNi," the "Company," "we," "our" or "us" refers to HSN, Inc., (v) "ILG" refers to Interval Leisure Group, Inc., (vi) "Tree.com" refers to Tree.com, Inc. and (vii) "Spin-Off," "spin-off" or "distribution" refers to the distribution by IAC of the common stock of the Company, the "spin-offs," the "distributions" or the "separation" refers collectively to the distribution by IAC of the common stock of the Company and the other Spincos, as more fully described in this prospectus.

### Company Information

HSNi was incorporated in Delaware in May 2008. Its principal offices are located at 1 HSN Drive, St. Petersburg, FL 33729. Its main telephone number is 727-872-1000.

### Business of HSNi

HSNi owns and operates, through its subsidiaries, HSN, a retailer and interactive lifestyle network offering a broad assortment of products through television home shopping programming on the HSN television network and HSN.com. HSN strives to transform the shopping experience by incorporating experts, entertainment, inspiration, solutions, tips and ideas in connection with the sale of products through the HSN television network and HSN.com. HSNi also owns and operates, through its subsidiaries, the Cornerstone Brands portfolio of catalogs and related websites, including *Frontgate*, *Ballard Designs*, *Garnet Hill*, *Smith+Noble*, *The Territory Ahead*, *TravelSmith* and *Improvements*, as well as a limited number of retail stores.

### Businesses of the Other Spincos

*ILG.* ILG is a leading provider of membership services to the vacation ownership industry, which is a segment of the broader hospitality industry. Vacation ownership is a term used to describe the shared ownership of vacation real estate and includes those businesses which develop, manage, operate and sell vacation interests (i.e. the ownership or use of accommodations at a given property or properties, together with associated amenities and facilities for a specified period of time). ILG's principal business segment, Interval, makes available vacation ownership membership services to individual members of its exchange networks, which allows such members to exchange the use and occupancy of their vacation interest for comparable, alternative accommodations at the same or another resort participating in an Interval exchange network and provides such members with certain value-added products and services depending on the program and country of residence. Interval also makes available related services to developers of the resorts participating in its exchange networks worldwide. ILG's other business segment, RQH, was acquired in May 2007 and is a provider of vacation rental and property management services to vacationers and vacation property owners across Hawaii.

*Ticketmaster.* As the world's leading live entertainment ticketing and marketing company, Ticketmaster connects the world to live entertainment. Ticketmaster currently operates in 20 countries worldwide, providing ticket sales, ticket resale services, marketing and distribution through [www.ticketmaster.com](http://www.ticketmaster.com) and related proprietary Internet and mobile channels, independent sales outlets

and call centers worldwide. Established in 1976, Ticketmaster serves clients across multiple live event categories, providing exclusive ticketing services for leading arenas, stadiums, amphitheaters, music clubs, concert promoters, professional sports franchises and leagues, college sports teams, performing arts venues, museums and theaters.

*Tree.com.* Through its various subsidiaries, Tree.com currently operates a lending business (the "Lending Business") and a real estate business (the "Real Estate Business"). The Lending Business consists of online networks, principally LendingTree.com and GetSmart.com, as well as call centers, which match consumers with lenders and loan brokers. In addition, the Lending Business originates, processes, approves and funds various types of residential real estate loans under two brand names, LendingTree Loans® and HomeLoanCenter.com®, and offers residential mortgage loan settlement services under the name LendingTree Settlement Services. The Real Estate Business consists primarily of an internet-enabled national residential real estate brokerage that currently operates offices under the brand name "RealEstate.com, REALTORS." The Real Estate Business also consists of a brokerage that matches residential home buyers interested in newly constructed homes with builders and currently operates under the brand name "iNest®."

### **Overview of the Separation**

On July 1, 2008, the Board of Directors of IAC approved a plan to separate IAC into five separate, publicly traded companies via the distribution of all of the outstanding shares of common stock of the Spincos, each a wholly-owned subsidiary of IAC, with each Spinco having a single class of common stock. At the time of the spin-offs, the Spincos will hold directly or indirectly the assets and liabilities associated with the following businesses:

- HSNi: HSN TV, *HSN.com*, and the Cornerstone Brands, Inc. portfolio of catalogs, websites and retail locations;
- ILG: the businesses currently comprising IAC's Interval segment;
- Ticketmaster: Ticketmaster's primary domestic and international operations, as well as certain investments in unconsolidated affiliates; and
- Tree.com: the businesses currently comprising IAC's Lending and Real Estate segments.

Unless otherwise indicated or the context otherwise requires, references in this prospectus to the businesses of HSNi, ILG, Ticketmaster and Tree.com respectively refer to the businesses described above.

Immediately following the spin-offs, IAC primarily will be engaged in the business and operations relating to (i) Ask.com, Citysearch, IAC Advertising Solutions, Evite and Funweb Products; (ii) Match.com, ServiceMagic and Shoebuy.com; (iii) its emerging businesses, including Black Web Enterprises, BustedTees, CollegeHumor, GarageGames, Gifts.com, Green.com, InstantAction, Primal Ventures, Pronto, Very Short List, Vimeo and 23/6; and (iv) certain investments in unconsolidated entities.

Prior to the spin-offs, we will enter into a Separation and Distribution Agreement and several other agreements with IAC and the other Spincos to effect the separation of the Spincos and provide a framework for the relationships of the Spincos with IAC and each other. Immediately following the spin-offs, IAC stockholders will own 100% of the outstanding common stock of each of the Spincos.



## QUESTIONS AND ANSWERS ABOUT HSNi AND THE SPIN-OFFS

***Why are the spin-offs structured as dividends?***

IAC believes that a tax-free distribution of shares of the Spincos to IAC stockholders is a tax-efficient way to separate HSNi, ILG, Ticketmaster and Tree.com from the rest of IAC in a manner that will create long-term value for IAC stockholders.

***How will the HSNi spin-off occur?***

IAC will distribute to its stockholders via dividend all of the outstanding shares of common stock of HSNi owned by IAC, which will be 100% of the common stock of HSNi outstanding immediately prior to the spin-offs

***How many shares of HSNi will I receive?***

Unless otherwise determined by the IAC Board of Directors prior to the distribution date, for every share of IAC common stock or Class B common stock held by you as of the record date, you will receive one-fifth of a share of common stock of HSNi. IAC will not distribute any fractional shares of HSNi common stock to its stockholders. Instead, the distribution agent will aggregate fractional shares into whole shares, sell the whole shares in the open market at prevailing market prices and distribute the aggregate net cash proceeds of the sales pro rata to each holder who otherwise would have been entitled to receive a fractional share in the spin-off. Recipients of cash in lieu of fractional shares will not be entitled to any interest on the amounts of payment made in lieu of fractional shares. The number of shares that IAC will distribute to its stockholders will be reduced to the extent that cash payments are to be made in lieu of the issuance of fractional shares of HSNi common stock.

***Can IAC decide not to complete the HSNi spin-off?***

Yes. The IAC Board of Directors has reserved the right, in its sole discretion, to amend, modify or abandon the spin-offs and related transactions at any time prior to the distribution date. This means that IAC has the right not to complete the spin-off of any or all of the Spincos if, at any time, the IAC Board of Directors determines, at its sole discretion, that the spin-off is not in the best interests of IAC or its stockholders. Alternatively, the IAC Board of Directors may determine to delay the spin-off of one or more of the Spincos, in which event the spin-offs may not occur simultaneously. In addition, the spin-offs are subject to the satisfaction or waiver of a number of conditions. See "The Separation—Conditions to the Spin-offs."

***What is the record date for the HSNi spin-off?***

The record date for determining stockholders entitled to receive the shares of HSNi in the spin-off is the close of business on [ • ], 2008.

***What is the distribution date for the HSNi Spin-off?***

The distribution date for distributing the shares of common stock of HSNi under the spin-off is [ ], 2008. However, the IAC Board of Directors may determine to delay the spin-off.

***What other transactions affecting HSNi are occurring with the spin-off?***

IAC currently expects that in connection with the spin-off of HSNi, HSNi will distribute to IAC approximately \$324 million in cash. To fund this distribution, we have entered into certain financing arrangements described below. Additionally, we may distribute some amount of cash on hand, but the amount of the distribution is not presently knowable and is unlikely to be material. The financing arrangements for HSNi consist of a combination of secured credit facilities and privately-issued debt securities. Our expected borrowing arrangements are described under "Transfers to IAC and Financing." We also expect to dividend to IAC prior to the spin-offs all net receivables owed to us by IAC and its affiliates.

In addition, IAC expects to effect a reverse stock split following the spin-offs, as described under "The Separation—Results of the Separation."

***What are the U.S. federal income tax consequences of the spin-offs to IAC stockholders?***

IAC has requested and expects to receive, prior to effecting any of the spin-offs, a private letter ruling from the Internal Revenue Service (the "IRS") and/or an opinion of counsel satisfactory to the IAC Board of Directors regarding the qualification of the spin-offs, together with certain related transactions, as transactions that are generally tax free for U.S. federal income tax purposes under Sections 355 and/or 368(a)(1)(D) of the Internal Revenue Code of 1986, as amended (the "Code"). If the private letter ruling is received prior to the spin-offs, IAC expects to receive an opinion of counsel regarding certain aspects of the transaction that are not covered by the private letter ruling. If the private letter ruling is not received prior to the spin-offs, IAC expects to receive an opinion of counsel regarding the qualification of the spin-offs as transactions that are generally tax free for U.S. federal income tax purposes under Sections 355 and/or 368(a)(1)(D) of the Code. Assuming the spin-offs qualify as transactions that are generally tax free for U.S. federal income tax purposes under Sections 355 and/or 368(a)(1)(D) of the Code, for U.S. federal income tax purposes, no gain or loss will be recognized by you, and no amount will be included in your income, upon the receipt of shares of Spinco common stock pursuant to the spin-offs, except with respect to any cash received in lieu of a fractional share of Spinco common stock. For more information, see "The Separation—Material U.S. Federal Income Tax Consequences of the Spin-Offs," included elsewhere in this prospectus.

***What will the relationships among IAC and each of the Spinco's be following the spin-offs?***

Prior to the spin-offs, we will enter into a Separation and Distribution Agreement and several other agreements with IAC and the other Spinco's to effect the spin-offs and provide a framework for the relationships of each of the Spinco's with IAC and the other Spinco's. These agreements will govern our relationships with IAC and the other Spinco's subsequent to the completion of the spin-off. See "Certain Relationships and Related Party Transactions—Relationships Among IAC and the Spinco's."

***Will I receive physical certificates representing shares of common stock of HSNi following the separation?***

No. Following the separation, neither IAC nor HSNi will be issuing physical certificates representing shares of the common stock of HSNi. Instead, IAC, with the assistance of The Bank of New York, the distribution agent, will electronically issue shares of HSNi common stock to you or to your bank or brokerage firm on your behalf by way of direct registration in book-entry form. The Bank of New York will mail you a book-entry account statement that reflects your shares of HSNi common stock, or your bank or brokerage firm will credit your account for the shares.

***What if I want to sell my IAC common stock or my common stock in HSNi?***

You should consult with your financial advisors, such as your stockbroker or bank. Neither IAC nor HSNi makes any recommendations on the purchase, retention or sale of shares of IAC common stock or the Spinco common stock to be distributed.

If you decide to sell any shares before the spin-offs, you should make sure your stockbroker, bank or other nominee understands whether you want to sell your IAC shares or Spinco shares you will receive in the spin-offs or both.

***Where will I be able to trade shares of the common stock of HSNi?***

There is not currently a public market for the common stock of HSNi. We have been approved to list our common stock on the NASDAQ Stock Market, or "NASDAQ," under the symbol "HSNI." We anticipate that trading in shares of our common stock will begin on a "when-issued" basis prior to the distribution date and will continue up to and including through the distribution date and that "regular-way" trading in shares of our common stock will begin on the first trading day following the distribution date. If trading begins on a "when-issued" basis, you may purchase or sell your HSNi common stock up to and including through the distribution date, but your transaction will not settle until after the distribution date. You will not be required to make any payment, surrender or exchange your shares of IAC common stock and/or Class B common stock or take any other action to receive your shares of HSNi common stock.

<b><i>Will the number of IAC shares I own change as a result of the spin-offs?</i></b>	No. The number of shares of IAC common stock you own will not change as a result of the spin-offs. However, in connection with the spin-offs, and as described under "The Separation—Results of the Separation," IAC expects to effect a reverse stock split following the spin-offs.
<b><i>What will happen to the listing of IAC common stock?</i></b>	Nothing. IAC common stock will continue to be traded on NASDAQ under the symbol "IACI."
<b><i>Which businesses will be retained by IAC following the spin-offs?</i></b>	Immediately following the spin-offs, IAC primarily will be engaged in the business and operations relating to (i) Ask.com, Citysearch, IAC Advertising Solutions, Evite, and Funweb Products; (ii) Match.com, ServiceMagic and Shoebuy.com; (iii) its emerging businesses, including Black Web Enterprises, BustedTees, CollegeHumor, GarageGames, Gifts.com, Green.com, InstantAction, Primal Ventures, Pronto, Very Short List, Vimeo and 23/6; and (iv) certain investments in unconsolidated entities.
<b><i>Are there risks to owning HSNi common stock?</i></b>	Yes. Our business is subject to both general and specific risks relating to our business, leverage, relationship with IAC and being a separate publicly traded company. Our business is also subject to risks relating to the separation. These risks are described in the "Risk Factors" section of this prospectus beginning on page 8. You are encouraged to read that section carefully.
<b><i>Where can IAC stockholders get more information?</i></b>	Before the spin-offs, if you have any questions relating to the spin-offs, you should contact: IAC Investor Relations 555 West 18th Street New York, NY 10011 Tel: (212) 314-7400 Fax: (212) 314-7379 <a href="mailto:ir@iac.com">ir@iac.com</a>
<b><i>Is Liberty Media Corporation challenging the spin-offs?</i></b>	No. Liberty Media Corporation and IAC have agreed to a single-tiered voting structure for each of the Spinco and the Spinco governance provisions as set forth under "Certain Relationships and Related Party Transactions—Agreements with Liberty Media Corporation."

## RISK FACTORS

### RISK FACTORS RELATING TO OUR SPIN-OFF FROM IAC

*After our spin-off from IAC, we may be unable to make the changes necessary to operate effectively as a separate public entity.*

Following our spin-off from IAC, IAC will have no obligation to provide financial, operational or organizational assistance to us, other than limited services pursuant to a transition services agreement that we will enter into with IAC and the other Spincos in connection with the spin-offs. As a separate public entity, we will be subject to, and responsible for, regulatory compliance, including periodic public filings with the SEC and compliance with NASDAQ's continued listing requirements, as well as generally applicable tax and accounting rules. We may be unable to implement successfully the changes necessary to operate as an independent public entity.

*We expect to incur increased costs relating to operating as an independent company that could cause our cash flow and results of operations to decline.*

We expect that the obligations of being a public company, including substantial public reporting and investor relations obligations, will require new expenditures, place new demands on our management and will require the hiring of additional personnel. We may need to implement additional systems that require new expenditures in order to adequately function as a public company. Such expenditures could adversely affect our business, financial condition and results of operations.

In addition, IAC's businesses, by virtue of being under the same corporate structure, currently share economies of scope and scale in costs, human capital, vendor relationships and customer relationships with the businesses that we and the other Spincos will own following the spin-offs. The increased costs resulting from the loss of these benefits could have an adverse effect on us.

*If one or more spin-offs, together with certain related transactions, were to fail to qualify as a transaction that is generally tax free for U.S. federal income tax purposes under Sections 355 and/or 368(a)(1)(D) of the Code, IAC, the Spincos and IAC stockholders may be subject to significant tax liabilities.*

IAC expects to receive a private letter ruling from the IRS and/or an opinion of counsel satisfactory to the IAC Board of Directors regarding the qualification of the spin-offs, together with certain related transactions, as transactions that are generally tax free for U.S. federal income tax purposes under Sections 355 and/or 368(a)(1)(D) of the Code. If the private letter ruling is received prior to the spin-offs, IAC expects to receive an opinion of counsel regarding certain aspects of the transaction that are not covered by the private letter ruling. If the private letter ruling is not received prior to the spin-offs, IAC expects to receive an opinion of counsel regarding the qualification of the spin-offs as transactions that are generally tax free for U.S. federal income tax purposes under Section 355 and/or Section 368(a)(1)(D) of the Code, and opinions from its external tax advisors regarding the U.S. federal income tax consequences to IAC of certain related matters and transactions, and certain state tax consequences to IAC of the spin-offs. The IRS private letter ruling and the opinions will be based on, among other things, certain assumptions as well as the accuracy of certain representations and statements that IAC and the Spincos make to the IRS and to counsel or IAC's external tax advisors. If any of these representations or statements are, or become, inaccurate or incomplete, or if IAC or the Spincos breach any of their respective covenants, the IRS private letter ruling and/or the opinions may be invalid.

Moreover, as noted above, the IRS private letter ruling would not address all the issues that are relevant to determining whether the spin-offs qualify as transactions that are generally tax free for U.S. federal income tax purposes. Notwithstanding the IRS private letter ruling and/or opinion of counsel, the IRS could determine that one or more of the spin-offs should be treated as a taxable distribution if it determines that any of the representations, assumptions or undertakings that were included in the

request for the IRS private letter ruling is false or has been violated or if it disagrees with the conclusions in the opinion of counsel that are not covered by the IRS ruling.

If one or more spin-offs were to fail to qualify as a transaction that is generally tax free for U.S. federal income tax purposes under Sections 355 and/or 368(a)(1)(D) of the Code, then IAC generally would recognize gain in an amount equal to the excess of (i) the fair market value of the Spinco common stock distributed to the IAC stockholders in such taxable spin-off over (ii) IAC's tax basis in the common stock of such Spinco. In addition, each IAC stockholder who received Spinco common stock in such taxable spin-off generally would be treated as having received a taxable distribution in an amount equal to the fair market value of the Spinco common stock received (including any fractional share sold on behalf of the stockholder) in such spin-off, which would be taxable as a dividend to the extent of the stockholder's ratable share of IAC's current and accumulated earnings and profits (as increased to reflect any current income, including any gain, recognized by IAC on the taxable spin-off). The balance, if any, of the distribution would be treated as a nontaxable return of capital to the extent of the IAC stockholder's tax basis in its IAC stock, with any remaining amount being taxed as capital gain. For more information, see "The Separation—Material U.S. Federal Income Tax Consequences of the Spin-Offs," included elsewhere in this prospectus.

Under the Tax Sharing Agreement that we will enter into with IAC and the other Spinco, each Spinco generally would be required to indemnify IAC and the other Spinco for any taxes resulting from the spin-off of such Spinco (and any related interest, penalties, legal and professional fees, and all costs and damages associated with related stockholder litigation or controversies) to the extent such amounts resulted from (i) any act or failure to act by such Spinco described in the covenants in the Tax Sharing Agreement, (ii) any acquisition of equity securities or assets of such Spinco or a member of its group, or (iii) any breach by such Spinco or any member of its group of any representation or covenant contained in the separation documents or in the documents relating to the IRS private letter ruling and/or tax opinions. The ability of IAC or the other Spinco to collect under these indemnity provisions will depend on the financial position of the indemnifying party. See "Certain Relationships and Related Party Transactions—Tax Sharing Agreement."

In addition, the IRS could disagree with or challenge the conclusions reached in one or more of the tax opinions that IAC expects to receive with respect to certain related matters and transactions. In such case, IAC could recognize material amounts of taxable income or gain.

***Certain transactions in IAC or Spinco equity securities could cause one or more of the spin-offs to be taxable to IAC and may give rise to indemnification obligations of HSNi under the Tax Sharing Agreement.***

Current U.S. federal income tax law creates a presumption that the spin-off of a Spinco would be taxable to IAC, but not to its stockholders, if such spin-off is part of a "plan or series of related transactions" pursuant to which one or more persons acquire directly or indirectly stock representing a 50% or greater interest (by vote or value) in IAC or such Spinco. Acquisitions that occur during the four-year period that begins two years before the date of a spin-off are presumed to occur pursuant to a plan or series of related transactions, unless it is established that the acquisition is not pursuant to a plan or series of transactions that includes the spin-off. U.S. Treasury regulations currently in effect generally provide that whether an acquisition and a spin-off are part of a plan is determined based on all of the facts and circumstances, including, but not limited to, specific factors described in the Treasury regulations. In addition, the Treasury regulations provide several "safe harbors" for acquisitions that are not considered to be part of a plan.

These rules will limit our ability and the ability of IAC during the two-year period following the spin-offs to enter into certain transactions that might be advantageous to them and their respective stockholders, particularly issuing equity securities to satisfy financing needs, repurchasing equity securities, and, under certain circumstances, acquiring businesses or assets with equity securities or

agreeing to be acquired. Under the Tax Sharing Agreement, there will be restrictions on our ability to take such actions for a period of 25 months from the day after the date of our spin-off from IAC.

In addition, the Tax Sharing Agreement generally provides that each Spinco will have to indemnify IAC and the other Spinco's for any taxes resulting from the spin-off of such Spinco (and any related interest, penalties, legal and professional fees, and all costs and damages associated with related stockholder litigation or controversies) to the extent such amounts result from (i) any act or failure to act by such Spinco described in the covenants in the Tax Sharing Agreement, (ii) any acquisition of equity securities or assets of such Spinco or a member of its group, and (iii) any breach by such Spinco or any member of its group of any representation or covenant contained in the separation documents or in the documents relating to the IRS private letter ruling and/or tax opinions. See "The Separation—Material U.S. Federal Income Tax Consequences of the Spin-Offs" and "Certain Relationships and Related Party Transactions—Tax Sharing Agreement."

In addition to actions of IAC and the Spinco's, certain transactions that are outside their control and therefore not subject to the restrictive covenants contained in the Tax Sharing Agreement, such as a sale or disposition of the stock of IAC or the stock of a Spinco by certain persons that own five percent or more of any class of stock of IAC or such Spinco, respectively, could have a similar effect on the tax-free status of the spin-offs as transactions to which IAC or a Spinco is a party. As of April 30, 2008, Liberty Media Corporation and certain of its affiliates, in the aggregate, owned IAC stock representing approximately 61.6% by vote and 29.9% by value and, assuming no acquisitions or dispositions of IAC stock by Liberty Media Corporation or its affiliates between such date and the date of the spin-offs, are expected to own stock of each Spinco representing approximately 29.9% by vote and value. Accordingly, in evaluating our ability and the ability of IAC to engage in certain transactions involving our or IAC's equity securities, we and IAC will need to take into account the activities of Liberty Media Corporation and its affiliates.

As a result of these rules, even if the HSNi spin-off otherwise qualifies as a transaction that is generally tax-free for U.S. federal income tax purposes, transactions involving HSNi or IAC equity securities (including transactions by certain significant stockholders) could cause IAC to recognize taxable gain with respect to the stock of HSNi as described above. Although the restrictive covenants and indemnification provisions contained in the Tax Sharing Agreement are intended to minimize the likelihood that such an event will occur, the HSNi spin-off may become taxable to IAC as a result of transactions in IAC or HSNi equity securities.

***The market price and trading volume of HSNi securities may be volatile and may face negative pressure.***

There is currently no trading market for any HSNi securities. Investors may decide to dispose of some or all of the HSNi securities that they receive in the HSNi spin-off. HSNi securities issued in the HSNi spin-off will be trading publicly for the first time. Until, and possibly even after, orderly trading markets develop for these securities, there may be significant fluctuations in price. It is not possible to accurately predict how investors in HSNi's securities will behave after the HSNi spin-off. The market price for HSNi's securities following the HSNi spin-off may be more volatile than the market price of IAC securities before the spin-off. The market price of HSNi's securities could fluctuate significantly for many reasons, including the risks identified in this prospectus or reasons unrelated to our performance. These factors may result in short- or long-term negative pressure on the value of the HSNi securities.

*After our spin-off from IAC, our securities may not qualify for placement in investment indices. In addition, our securities may fail to meet the investment guidelines of institutional investors. In either case, these factors may negatively impact the price of our securities and may impair our ability to raise capital through the sale of securities.*

Some of the holders of IAC securities are index funds tied to NASDAQ or other stock or investment indices, or are institutional investors bound by various investment guidelines. Companies are generally selected for investment indices, and in some cases selected by institutional investors, based on factors such as market capitalization, industry, trading liquidity and financial condition. As an independent company, we will initially have a lower market capitalization than IAC has today. As a result, our securities may not qualify for those investment indices. In addition, the securities that are received in the HSNi spin-off may not meet the investment guidelines of some institutional investors. Consequently, these index funds and institutional investors may have to sell some or all of the securities they receive in the HSNi spin-off, and the price of our securities may fall as a result. Any such decline could impair our ability to raise capital through future sales of securities.

***Financing—We may have future capital needs and may not be able to obtain additional financing on acceptable terms.***

In connection with our spin-off from IAC, we expect to incur indebtedness of approximately \$390 million. We expect that we will distribute most or all of the proceeds from this indebtedness to IAC.

These arrangements may limit our ability of to secure significant, additional financing in the future on favorable terms. Our ability to secure additional financing and satisfy our financial obligations under indebtedness outstanding from time to time will depend upon our future operating performance, which is subject to then prevailing general economic and credit market conditions, including interest rate levels and the availability of credit generally, and financial, business and other factors, many of which are beyond our control. The prolonged continuation or worsening of current credit market conditions would have a material adverse affect on our ability to secure financing on favorable terms, if at all.

We may be unable to secure additional financing or financing on favorable terms or our operating cash flow may be insufficient to satisfy our financial obligations under indebtedness outstanding from time to time (if any). Furthermore, if financing is not available when needed, or is available on unfavorable terms, we may be unable to develop new or enhance our existing services, complete acquisitions or otherwise take advantage of business opportunities or respond to competitive pressures, any of which could have a material adverse effect on our business, financial condition and results of operations. If additional funds are raised through the issuance of equity securities, our stockholders may experience significant dilution. Also, our ability to engage in significant equity issuances will be limited or restricted after our spin-off from IAC in order to preserve the tax-free nature of the distribution.

***The spin-off agreements were not the result of arm's length negotiations.***

The agreements that we will enter into with IAC and the other Spincos in connection with the spin-offs, including the separation and distribution agreement, tax sharing agreement, employee matters agreement and transition services agreement, were established by IAC, in consultation with the Spincos, with the intention of maximizing the value to current IAC's shareholders. Accordingly, the terms for us may not be as favorable as would have resulted from negotiations among unrelated third parties.



**RISK FACTORS RELATING TO OUR BUSINESS FOLLOWING  
HSN's SPIN-OFF FROM IAC**

***Third Party Pay Television Relationships—We depend on relationships with pay television operators and any adverse changes in these relationships could adversely affect our business, financial condition and results of operations.***

We are dependent upon the pay television operators with whom we enter into distribution and affiliation agreements to carry the HSN television network. We currently have contracts with many local and national pay television operators to distribute HSN television programming. Some of our larger pay television operators include: Comcast, Time Warner, DirecTV and EchoStar/DISH. HSN television network sales from customers residing in households that subscribed to these larger pay television operators accounted for approximately 30% of our annual revenue in 2007. Distribution and affiliation agreements with major pay television operators expire from time to time and in some cases, renewals are not agreed upon prior to the expiration of a given agreement and the HSN television network continues to be carried by the relevant pay television operator without an effective affiliation agreement in place. Renewal and negotiation processes with pay television operators are typically lengthy and we are currently engaged in the renewal and/or negotiation processes with a certain major cable pay television operator regarding an agreement that expired in 2005, with carriage of the HSN network continuing under short-term extensions pending the conclusion of this process. However, we may be unable to successfully pursue the renewal, or negotiate new, distribution and affiliation agreements with this or other providers to carry the HSN television network on acceptable terms, if at all.

The cessation of carriage of the HSN television network by a major pay television operator or a significant number of smaller pay television operators for a prolonged period of time could adversely affect our business, financial condition and results of operations. While we believe that we will be able to continue to successfully manage the distribution process in the future, certain changes in distribution levels, as well as increases in commission rates and/or other fees payable for carriage, could occur notwithstanding these efforts.

***Third Party Vendor and Other Relationships—We depend on relationships with vendors, manufacturers and other third parties, and any adverse changes in these relationships could adversely affect our business, financial condition and results of operations.***

Our businesses purchase merchandise from a wide variety of third party vendors, manufacturers and other sources pursuant to short- and long-term contracts and purchase orders. The ability of our businesses to identify and establish relationships with these parties, as well as access quality merchandise in a timely and efficient manner on acceptable terms and cost, can be challenging. In particular, our businesses purchase a significant amount of merchandise from vendors and manufacturers abroad, and have experienced (and expect to continue to experience) increased costs for goods sourced in these markets, particularly in China. We depend on the ability of vendors and manufacturers in the U.S. and abroad to produce and deliver goods that meet applicable quality standards, which is impacted by a number of factors not within the control of these parties, such as political or financial instability, trade restrictions, tariffs, currency exchange rates and transport capacity and costs, among others. In particular, Cornerstone is dependent, in significant part, upon independent, third party manufacturers to produce private label merchandise.

Late delivery of merchandise or delivery of merchandise that does not meet applicable quality standards could cause our businesses to miss customer delivery dates or delay scheduled promotions, which would result in the failure to meet customer expectations and could cause customers to cancel orders or cause our businesses to be unable to source merchandise in sufficient quantities, which could result in lost sales. The failure of our businesses to identify new vendors and manufacturers, maintain relationships with a significant number of existing vendors and manufacturers and/or access quality

merchandise in a timely and efficient manner on acceptable terms and cost, could adversely affect our business, financial condition and results of operations.

***Channel Capacity and Placement for the HSN Television Network—The failure to secure suitable placement for the HSN television network would adversely affect our business, financial condition and results of operations.***

We are dependent upon the continued ability of HSN to compete for television viewers. Effectively competing for television viewers is dependent, in substantial part, on the ability of HSN to secure suitable placement, in other words, the placement of the HSN television network within a suitable programming tier at a low channel position placement. The advent of digital compression technologies and the adoption of digital cable has resulted in increased channel capacity, which together with other changing laws, rules and regulations regarding cable television ownership, impacts the ability of HSN to secure suitable channel placement. While increased channel capacity could provide a means through which the HSN television network could be more widely distributed, it could also adversely affect the ability to attract television viewers to the HSN television network to the extent it results in:

- higher channel position placement for the HSN television network;
- placement of the HSN television network in digital programming tiers, which generally have lower levels of television viewer penetration than basic or expanded basic programming tiers;
- competitors entering the marketplace; or
- more programming options being available to the viewing public in the form of new television networks and time-shifted viewing (e.g., personal video recorders, video-on-demand, interactive television and streaming video over broadband internet connections).

If the HSN television network is carried exclusively in a system on a digital programming tier, HSN will experience a reduction in revenue to the extent that the digital programming tier has less television viewer penetration than the basic or expanded basic programming tier. In addition, HSN may experience a further reduction in revenue due to increased television viewing audience fragmentation and to the extent that not all television sets within a digital cable home are equipped to receive television programming in a digital format. Our future success will also depend, in part, on the ability of HSN to anticipate and adapt to technological changes and to offer elements of the HSN television network via new technologies in a cost-effective manner that meet customer demands and evolving industry standards.

***Marketing—We may not attract and retain customers in a cost-effective manner, which could adversely affect our business, financial condition and results of operations.***

Our long-term success, in large part, depends on the continued ability of our businesses to attract new and retain existing customers. In an effort to do so, we and our businesses engage in various marketing and merchandising initiatives, which involve the expenditure of considerable money and resources, particularly in the case of the production and distribution of HSN television programming and catalogs, and to a lesser but increasing extent, online advertising. We and our businesses have spent, and expect to continue to spend, increasing amounts of money on, and devote greater resources to, certain of these initiatives, particularly in connection with the growth and maintenance of our brands generally, as well as in the continuing efforts of our businesses to increasingly engage customers through online channels. These initiatives, however, may not resonate with existing customers or consumers generally or may not be cost-effective. In addition, we believe that costs associated with the production and distribution of HSN television programming, paper and printing costs for catalogs and costs associated with online marketing, including search engine marketing (primarily the purchase of relevant keywords) are likely to increase in the foreseeable future, and if significant, could have an adverse effect on our business, financial condition and results of operations to the extent that they do not result in corresponding increases in sales.

***Customer Preferences and Trends—Our businesses may not be able to accurately predict and/or respond in a timely manner to evolving customer preferences and trends and industry standards, which could adversely affect our business, financial condition and results of operations.***

Our success depends, in significant part, on the ability of our businesses to accurately predict, and respond in a timely manner to, changes in customer preferences and fashion, lifestyle and other trends and industry standards. While product mix and price points are continuously monitored and adjusted in an attempt to satisfy consumer demand and respond to changing economic and business conditions, our businesses may not be successful in these efforts, and any sustained failure could result in excess inventory and related markdowns, which, if significant, would have a material adverse effect on our business, financial conditions and results of operations.

In addition, sales by our businesses through online channels are continuing to increase and these businesses continue to increasingly attempt to engage customers through online channels. The e-commerce industry is characterized by evolving industry standards, frequent new service and product introductions and enhancements, as well as changing customer demands, to which our businesses may not be able to adapt quickly enough and/or in a cost-effective manner, and the failure to do so could have an adverse effect on our business, financial condition and results of operations.

***Adverse Events and Trends—Adverse economic and business conditions could adversely affect our business, financial condition and results of operations.***

Retailers generally are particularly sensitive to adverse global economic and business conditions, which could result in a loss of consumer confidence and related decreases in consumer expenditures, particularly discretionary expenditures. These and any other adverse economic and business conditions could result in a decrease in sales, which would have an adverse impact on our business, financial condition and results of operations, which could be material to the extent that any such conditions were to continue on a prolonged basis.

***Flexpay Program—Unplanned losses experienced in connection with the Flexpay program could adversely affect our business, financial condition and results of operations.***

HSN offers Flexpay, pursuant to which customers may pay for certain merchandise in two to six interest-free, monthly credit or debit card payments. We maintain allowances for doubtful accounts of estimated losses resulting from the inability of customers to make required payments. While actual losses due to the inability of customers to make required payments have historically been within estimates, we may not continue to experience these losses at the same rate as we have historically or our actual losses in any given period may exceed related estimates. HSN has continued to offer more products through Flexpay and customers have increasingly used Flexpay to pay for purchases. As Flexpay balances grow, we expect that we will continue to experience these losses at greater rates, which will require us to maintain greater allowances for doubtful accounts of estimated losses than we have historically. A significant increase in losses of this nature could adversely affect our business, financial condition and results of operations.

***Delivery Costs—Increased delivery costs could adversely affect our business, financial condition and results of operations.***

Our businesses are impacted by increases in shipping rates charged by various shipping vendors relating to the procurement of merchandise from vendors and manufacturers, the shipment of merchandise to customers and the mailing of catalogs, which over the past few years have increased significantly in comparison to historical levels. We currently expect that shipping and postal rates will continue to increase. In the case of deliveries to customers, we have negotiated favorable shipping rates, which increase at agreed upon levels over time, with one independent, third party shipping

company pursuant to a long-term contract. If this relationship were to terminate or if the shipping company was unable to fulfill its obligations under the contract for any reason, we would have to work with other shipping companies to deliver merchandise to customers, which would most likely be at less favorable rates. Any increase in shipping rates and related fuel and other surcharges passed on to us by this or any other shipping company would adversely impact profits, given that we may not be able to pass these increased costs directly to customers or offset them by increasing prices without a detrimental effect on customer demand.

***Ability to Broadcast the HSN Television Network—The continued or permanent inability to broadcast the HSN television network would adversely affect our business, financial condition and results of operations.***

Our success is dependent upon the continued ability of HSN to transmit the HSN television network to broadcast and pay television operators from its satellite uplink facilities, which transmission is subject to FCC compliance. HSN has entered into a long-term satellite transponder lease to provide for continued carriage of the HSN television network on a replacement transponder and/or replacement satellite, as applicable, in the event of a failure of the transponder and/or satellite currently carrying the HSN television network. Although we believe that every reasonable measure is being taken to ensure continued satellite transmission capability, termination or interruption of satellite transmissions may occur. We have designed business continuity and disaster recovery plans to ensure continued satellite transmission capability on a temporary basis in the event of inclement weather or a natural or other disaster.

HSN is affiliated with a number of low power broadcast television station licensees (including Ventana and certain third party low power broadcast television station licensees collectively, the "Low Power Licensees") that broadcast programming pursuant to licenses from the FCC. These Low Power Licensees are subject to regulation by the FCC under the Communications Act of 1934, as amended, which prohibits the operation of broadcast television stations except in accordance with a license issued by the FCC and empowers the FCC to issue, revoke, modify and renew broadcast television licenses, approve the transfer of control of any entity holding such licenses, determine the location of stations, regulate the equipment used by stations, adopt necessary regulations and impose penalties for related violations. All of the Ventana-owned broadcast stations carry the HSN television network and Ventana is fully responsible for such stations' compliance. The failure of the Low Power Licensees to comply with the terms of the broadcast licenses could result in the inability to broadcast the HSN television network on over-the-air facilities, as well as penalties. The prolonged or permanent interruption of satellite transmission capability or other inability to transmit the HSN television network for any reason, as well as related costs incurred, would have a material adverse effect on our business, financial condition and results of operations.

***Potential Product Liability Claims—Our businesses may be subject to claims for representations made in connection with the sale and promotion of merchandise or for harm experienced by customers who purchase merchandise from our businesses.***

The manner in which our businesses sell and promote merchandise and related claims and representations made in connection with these efforts is regulated by federal and state law. Since October 1996, HSN has been subject to a consent order issued by the Federal Trade Commission (the "FTC"), which terminates on the later of April 15, 2019, or twenty years from the most recent date that the United States or the FTC files a complaint in federal court alleging any violation thereunder. Pursuant to this consent order, HSN is prohibited from making claims for specified categories of products, including claims that a given product can cure, treat or prevent any disease or have an effect on the structure or function of the human body, unless it has competent and reliable scientific evidence to substantiate such claims. Violation of this consent order may result in the imposition of significant civil penalties for non-compliance and related redress to consumers and/or the issuance of an injunction

enjoining HSN from engaging in prohibited activities. The FTC periodically investigates the business and operation of HSN on an ongoing basis for purposes of determining its compliance with the consent order. Other regulations may also affect the claims and manner in which we can market our products through our businesses. For example, the Food and Drug Administration has specific regulations regarding claims that can be made about food products, and regulates marketing claims that can be made for cosmetic beauty products and over-the-counter drugs, which include acne products, all of which are sold through HSN. Also, the Environmental Protection Agency requires products that make certain types of claims, such as "anti-bacterial," to be registered with them prior to making such claims, which products are also sold through HSN.

Our businesses may be exposed to potential liability from claims by purchasers or from federal, state and local regulators and law enforcement agencies, including, but not limited to, for personal injury, wrongful death and damage to personal property relating to merchandise sold and misrepresentation of merchandise features and benefits. In certain instances, our businesses have the right to seek indemnification for related liabilities from their vendors and may require such vendors to carry minimum levels of product liability and errors and omissions insurance. These vendors, however, may be unable to obtain suitable coverage or maintain this coverage on acceptable terms, or this insurance may provide inadequate coverage against all potential claims or may not even be available with respect to any particular claim.

While we believe that our businesses have structured their operations and vendor and manufacturer relationships in a manner to ensure compliance with federal, state and local laws with respect to the sale and promotion of merchandise, we or our businesses may be held liable for product liability claims or for representations made in connection with the sale and promotion of merchandise. If significant, any such liability could adversely affect our business, financial condition and results of operations.

***Compliance and Changing Laws, Rules and Regulations—Failure to comply with existing laws, rules and regulations, or to obtain and maintain required licenses and rights, could adversely affect our business, financial condition and results of operations.***

The failure of our businesses to comply with existing laws, rules and regulations, or to obtain required licenses and rights, could adversely affect our business, financial condition and results of operations. Our businesses market and provide a broad range of merchandise through online and offline channels. As a result, they are subject to a wide variety of statutes, rules, regulations, policies and procedures in various jurisdictions which are subject to change at any time, including laws regarding consumer protection, privacy, the regulation of retailers generally, the importation, sale and promotion of merchandise and the operation of retail stores and warehouse facilities, as well as laws and regulations applicable to the internet and businesses engaged in online commerce, such as those regulating the sending of unsolicited, commercial electronic mail. In addition, unfavorable changes in the laws, rules and regulations applicable to us and our businesses could decrease demand for merchandise offered by our businesses, increase costs and/or subject us to additional liabilities, which could have an adverse effect on our business, financial condition and results of operations.

Various regulations impact the marketing efforts of our brands and businesses. For example, both the FTC's Telemarketing Sales Rule, the FCC's Telephone Consumer Protection Act and similar state rules outline procedures that must be followed when telemarketing to customers and many states also have laws regulating telemarketing. Online sales and e-mail marketing efforts of our brands and businesses are subject to general commercial law, as well as to specific laws governing electronic commerce. For instance, laws administered by the FTC place restrictions on the manner and content of e-mail marketing campaigns.

Online sales must comply with a variety of existing and new federal and state laws dealing with privacy, intellectual property, taxation, the provision of online payment services and electronic contracts. While U.S. Supreme Court decisions currently restrict the imposition of obligations to collect state and local sales and use taxes with respect to sales made over the Internet, New York State laws regarding the imposition of tax collection obligations were amended in April 2008 to provide a presumption that in certain circumstances (sales sourced through affiliated websites, agents or representatives based in New York State) online vendors who have agreements with online affiliates resident in New York are vendors for the purposes of registering for, collecting and remitting New York State and local sales tax. It is possible that additional states could impose similar collection requirements. While the New York requirement is being challenged in court, the outcome of such challenge is uncertain and enforcement of the new provision has not been suspended during litigation. Additionally, it is possible that the federal government could tax Internet-based transactions. The imposition by the federal or state and local governments of various taxes and related obligations upon Internet commerce and online vendors and service providers could create administrative burdens for our businesses, put our businesses at a competitive disadvantage to the extent that similar obligations are not imposed upon their competitors and could decrease future sales.

While we believe that the practices of our businesses have been structured in a manner to ensure compliance with these laws and regulations, federal or state regulatory authorities may take a contrary position. Our failure and/or the failure of any of our businesses to comply with these laws and regulations could result in fines and/or proceedings against us and/or our businesses by governmental agencies and/or consumers, which could adversely affect our business, financial condition and results of operations.

***Maintenance of Systems and Infrastructure—Our success depends, in part, on the integrity of our systems and infrastructures. System interruption and the lack of integration and redundancy in these systems and infrastructures may have an adverse impact on our business, financial conditions and results of operations.***

Our success depends, in part, on our ability to maintain the integrity of our systems and infrastructures, including websites, information and related systems, call centers and distribution and fulfillment facilities. System interruption and the lack of integration and redundancy in our information systems and infrastructures may adversely affect our ability to operate websites, process and fulfill transactions, respond to customer inquiries and generally maintain cost-efficient operations. We may experience occasional system interruptions that make some or all systems or data unavailable or prevent our businesses from efficiently providing services or fulfilling orders. We also rely on affiliate and third-party computer systems, broadband and other communications systems and service providers in connection with the provision of services generally, as well as to facilitate, process and fulfill transactions. Any interruptions, outages or delays in our systems and infrastructures, our businesses, our affiliates and/or third parties, or deterioration in the performance of these systems and infrastructures, could impair the ability of our businesses to provide services, fulfill orders and/or process transactions. Fire, flood, power loss, telecommunications failure, hurricanes, tornadoes, earthquakes, acts of war or terrorism, acts of God and similar events or disruptions may damage or interrupt computer, broadband or other communications systems and infrastructures at any time. Any of these events could cause system interruption, delays and loss of critical data, and could prevent our businesses from providing services, fulfilling orders and/or processing transactions. While our businesses have backup systems for certain aspects of their operations, these systems are not fully redundant and disaster recovery planning is not sufficient for all eventualities. In addition, we may not have adequate insurance coverage to compensate for losses from a major interruption. If any of these adverse events were to occur, it could adversely affect our business, financial conditions and results of operations.

In addition, any penetration of network security or other misappropriation or misuse of personal consumer information could cause interruptions in the operations of our businesses and subject us to

increased costs, litigation and other liabilities. Claims could also be made against us for other misuse of personal information, such as for unauthorized purposes or identity theft, which could result in litigation and financial liabilities, as well as administrative action from governmental authorities. Security breaches could also significantly damage our reputation with consumers and third parties with whom we do business. It is possible that advances in computer capabilities, new discoveries, undetected fraud, inadvertent violations of company policies or procedures or other developments could result in a compromise of information or a breach of the technology and security processes that are used to protect consumer transaction data. As a result, current security measures may not prevent any or all security breaches. We may be required to expend significant capital and other resources to protect against and remedy any potential or existing security breaches and their consequences. We also faces risks associated with security breaches affecting third parties with which we are affiliated or otherwise conduct business online. Consumers are generally concerned with security and privacy of the Internet, and any publicized security problems affecting our businesses and/or those of third parties may discourage consumers from doing business with us, which could have an adverse effect on our business, financial condition and results of operations.

***Privacy—The processing, storage, use and disclosure of personal data could give rise to liabilities as a result of governmental regulation, conflicting legal requirements or differing views of personal privacy rights.***

In the processing of consumer transactions, our businesses receive, transmit and store a large volume of personally identifiable information and other user data. The sharing, use, disclosure and protection of this information are governed by the privacy and data security policies maintained by us and our businesses. Moreover, there are federal, state and international laws regarding privacy and the storing, sharing, use, disclosure and protection of personally identifiable information and user data. Specifically, personally identifiable information is increasingly subject to legislation and regulations in numerous jurisdictions around the world, the intent of which is to protect the privacy of personal information that is collected, processed and transmitted in or from the governing jurisdiction. We could be adversely affected if legislation or regulations are expanded to require changes in business practices or privacy policies, or if governing jurisdictions interpret or implement their legislation or regulations in ways that negatively affect our business, financial condition and results of operations.

Our businesses may also become exposed to potential liabilities as a result of differing views on the privacy of consumer and other user data collected by these businesses. Our failure, and/or the failure by the various third party vendors and service providers with which we do business, to comply with applicable privacy policies or federal, state or similar international laws and regulations or any compromise of security that results in the unauthorized release of personally identifiable information or other user data could damage the reputation of these businesses, discourage potential users from trying our products and services and/or result in fines and/or proceedings by governmental agencies and/or consumers, one or all of which could adversely affect our business, financial condition and results of operations.

***Intellectual Property—We may fail to adequately protect our intellectual property rights or may be accused of infringing intellectual property rights of third parties.***

We may fail to adequately protect our intellectual property rights or may be accused of infringing intellectual property rights of third parties. We regard our intellectual property rights, including patents, service marks, trademarks and domain names, copyrights, trade secrets and similar intellectual property (as applicable), as critical to our success. Our businesses also rely heavily upon software codes, informational databases and other components that make up their products and services.

We rely on a combination of laws and contractual restrictions with employees, customers, suppliers, affiliates and others to establish and protect these proprietary rights. Despite these precautions, it may be possible for a third party to copy or otherwise obtain and use trade secret or copyrighted intellectual

property without authorization which, if discovered, might require legal action to correct. In addition, third parties may independently and lawfully develop substantially similar intellectual properties.

We have generally registered and continue to apply to register, or secure by contract when appropriate, our trademarks and service marks as they are developed and used, and reserve and register domain names as we deem appropriate. We generally consider the protection of our trademarks to be important for purposes of brand maintenance and reputation. While we vigorously protect our trademarks, service marks and domain names, effective trademark protection may not be available or may not be sought in every country in which products and services are made available, and contractual disputes may affect the use of marks governed by private contract. Similarly, not every variation of a domain name may be available or be registered, even if available. Our failure to protect our intellectual property rights in a meaningful manner or challenges to related contractual rights could result in erosion of brand names and limit our ability of to control marketing on or through the internet using our various domain names or otherwise, which could adversely affect our business, financial condition and results of operations.

Some of our businesses have been granted patents and/or have patent applications pending with the United States Patent and Trademark Office and/or various foreign patent authorities for various proprietary technologies and other inventions. We consider applying for patents or for other appropriate statutory protection when we develop valuable new or improved proprietary technologies or inventions are identified, and will continue to consider the appropriateness of filing for patents to protect future proprietary technologies and inventions as circumstances may warrant. The status of any patent involves complex legal and factual questions, and the breadth of claims allowed is uncertain. Accordingly, any patent application filed may not result in a patent being issued or existing or future patents may not be adjudicated valid by a court or be afforded adequate protection against competitors with similar technology. In addition, third parties may create new products or methods that achieve similar results without infringing upon patents that we own. Likewise, the issuance of a patent to us does not mean that our processes or inventions will not be found to infringe upon patents or other rights previously issued to third parties.

From time to time, we are subject to legal proceedings and claims in the ordinary course of business, including claims of alleged infringement of the trademarks, copyrights, patents and other intellectual property rights of third parties. In addition, litigation may be necessary in the future to enforce our intellectual property rights, protect trade secrets or to determine the validity and scope of proprietary rights claimed by others. Any litigation of this nature, regardless of outcome or merit, could result in substantial costs and diversion of management and technical resources, any of which could adversely affect our business, financial condition and results of operations. Patent litigation tends to be particularly protracted and expensive.



## FORWARD-LOOKING STATEMENTS

Forward-looking statements in this prospectus, the public filings or other public statements of the Company are subject to known and unknown risks, uncertainties and other factors that may cause actual results, performance or achievements of the Company to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements or other public statements. Forward-looking statements include the information regarding future financial performance, business prospects and strategy, including the completion of the spin-offs and the realization of related anticipated benefits, anticipated financial position, liquidity and capital needs and other similar matters, in each case relating to the Company.

Statements preceded by, followed by or that otherwise include the words "believes," "expects," "anticipates," "intends," "projects," "estimates," "plans," "may increase," "may fluctuate," and similar expressions or future or conditional verbs such as "will," "should," "would," "may" and "could" are generally forward-looking in nature and not historical facts. You should understand that the following important factors could affect future results and could cause actual results to differ materially from those expressed in such forward-looking statements:

- adverse changes in economic conditions generally or in any of the markets or industries in which the businesses of the Company operate;
- changes in senior management at the Company;
- adverse changes to, or interruptions in, relationships with third parties;
- changes affecting the ability of the Company to efficiently maintain and grow the market share of its various brands, as well as to extend the reach of these brands through a variety of distribution channels and to attract new (and retain existing) customers;
- consumer acceptance of new products and services offered by the Company;
- the rates of growth of the Internet and the e-commerce industry;
- changes adversely affecting the ability of the Company to adequately expand the reach of its businesses into various international markets, as well as to successfully manage risks specific to international operations and acquisitions, including the successful integration of acquired businesses;
- future regulatory and legislative actions and conditions affecting the Company, including:
  - the promulgation of new, and/or the amendment of existing laws, rules and regulations applicable to the Company and its businesses; and
  - changes in the application or interpretation of existing laws, rules and regulations in the case of the businesses of the Company. In each case, laws, rules and regulations include, among others, those relating to sales, use, value-added and other taxes, software programs, consumer protection and privacy, intellectual property, the Internet and e-commerce;
- competition from other companies;
- changes adversely affecting the ability of the Company and its businesses to adequately protect intellectual property rights, as well as to obtain licenses or other rights with respect to intellectual property in the future, which may or may not be available on favorable terms (if at all);
- the substantial indebtedness of the Company and the possibility that the Company may incur additional indebtedness;

- third-party claims alleging infringement of intellectual property rights by the Company or its businesses, which could result in the expenditure of significant financial and managerial resources, injunctions or the imposition of damages, as well as the need to enter into formal licensing or other similar arrangements with such third parties, which may or may not be available on favorable terms (if at all); and
- natural disasters, acts of terrorism, war or political instability.

Certain of these factors and other factors, risks and uncertainties are discussed in the "Risk Factors" section of this prospectus. Other unknown or unpredictable factors may also cause actual results to differ materially from those projected by the forward-looking statements. Most of these factors are difficult to anticipate and are generally beyond the control of IAC and the Company.

You should consider the areas of risk described above, as well as those set forth under the heading "Risk Factors," in connection with considering any forward-looking statements that may be made by the Company generally. Except for the ongoing obligations of the Company to disclose material information under the federal securities laws, the Company does not undertake any obligation to release publicly any revisions to any forward-looking statements, to report events or to report the occurrence of unanticipated events unless required to do so by law.

## THE SEPARATION

### General

On July 1, 2008, the IAC Board of Directors approved the separation of IAC into five separate, publicly traded companies, with each Spinco having a single class of common stock: (1) IAC, (2) HSNi, (3) ILG, (4) Ticketmaster and (5) Tree.com. The separation will be accomplished through the distribution by IAC of all of the shares of the common stock of the Spinco's held by IAC to holders of IAC common stock on the record date. Immediately following the distributions, IAC stockholders will own 100% of the outstanding common stock of IAC and the Spinco's. You will not be required to make any payment, surrender or exchange your shares of IAC common stock and/or Class B common stock or take any other action to receive your shares of HSNi common.

The Board of Directors of IAC has reserved the right to modify, delay or abandon the spin-off of any or all of the Spinco's. In addition, the spin-offs are subject to the satisfaction or waiver of a number of conditions described under "—Conditions to the Spin-Offs."

### The Number of Shares You Will Receive in the HSNi Spin-off

For every share of IAC common stock and/or Class B common stock that you owned at the close of business on [ • ], 2008, the record date, you will receive one-fifth of a share of common stock of HSNi on the distribution date. As described below under "—When and How You Will Receive the Dividend," IAC will not distribute any fractional shares of HSNi common stock to its stockholders.

### When and How You Will Receive the Dividend

IAC will distribute the shares of HSNi common stock on [ • ], 2008, the distribution date. However, the IAC Board of Directors may determine to delay the HSNi spin-off. The Bank of New York, which currently serves as the transfer agent and registrar for IAC's common stock, will serve as transfer agent and registrar for the HSNi common stock and as distribution agent in connection with the spin-offs.

If you own IAC common stock and/or Class B common stock as of the close of business on the record date, the shares of Spinco common stock that you are entitled to receive in the spin-off will be issued electronically, as of the distribution date, to you or to your bank or brokerage firm on your behalf by way of direct registration in book-entry form. Registration in book-entry form refers to a method of recording stock ownership when no physical share certificates are issued to stockholders, as is the case in the spin-off.

Commencing on or shortly after the distribution date, if you hold physical stock certificates that represent your shares of IAC common stock and/or Class B common stock and you are the registered holder of the IAC shares represented by those certificates, the distribution agent will mail to you an account statement that indicates the number of shares of Spinco common stock that have been registered in book-entry form in your name. If you have any questions concerning the mechanics of having shares of HSNi common stock registered in book-entry form, you are encouraged to contact The Bank of New York by mail at 480 Washington Blvd, Jersey City, NJ 07310 or PO Box 358015, Pittsburgh, PA 15252-8015, by phone at 866-203-6218 (US and Canada) or 201-680-6685 (International), or by email at [shrrelations@bnymellon.com](mailto:shrrelations@bnymellon.com).

Most IAC stockholders hold their shares of IAC common stock through a bank or brokerage firm. In such cases, the bank or brokerage firm would be said to hold the stock in "street name" and ownership would be recorded on the bank or brokerage firm's books. If you hold your IAC common stock through a bank or brokerage firm, your bank or brokerage firm will credit your account for the shares of common stock of the Spinco's that you are entitled to receive in the spin-offs. If you have any

questions concerning the mechanics of having shares of HSNi common stock held in "street name," you are encouraged to contact your bank or brokerage firm.

The Bank of New York, as distribution agent, will not deliver any fractional shares of HSNi common stock in connection with the spin-off. Instead, The Bank of New York will aggregate all fractional shares and sell them on behalf of the holders who otherwise would be entitled to receive fractional shares. If you physically hold IAC common stock certificates and are the registered holder, you will receive a check from the distribution agent in an amount equal to your pro rata share of the aggregate net cash proceeds of the sales. We estimate that it will take approximately two weeks from the distribution date for the distribution agent to complete the distributions of the aggregate net cash proceeds. If you hold your IAC stock through a bank or brokerage firm, your bank or brokerage firm will receive on your behalf your pro rata share of the aggregate net cash proceeds of the sales and should electronically credit your account for your share of such proceeds.

#### **Results of the Separation**

After the spin-off, we will be a separate publicly traded company. Immediately following the spin-offs, based on the number of registered stockholders of IAC common stock and Class B common stock on February 25, 2008, and without giving effect to "when-issued" trading, we expect to have approximately 1,500 stockholders of record.

The actual number of shares to be distributed will be determined based on the number of shares of IAC common stock and class B common stock outstanding on the record date and will reflect the issuance of IAC common stock in connection with any exercise of IAC options, vesting of restricted share units or conversion of other convertible IAC securities between the date the IAC Board of Directors declares the dividend for the distribution and the record date for the spin-off and the issuance of IAC shares under vested IAC equity-based awards between the record date for the spin-off and the distribution date.

The spin-offs will not affect the number of outstanding shares of IAC common stock and/or Class B common stock or any rights of IAC stockholders. However, in connection with the spin-offs, as more fully described in IAC's proxy statement under Schedule 14A under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), filed on July 10, 2008, IAC has sought approval from its stockholders of a proposal to amend its Restated Certificate of Incorporation to effect a 1-for-2 reverse stock split of its common stock and Class B common stock, which may be implemented by IAC's Board of Directors in its sole discretion immediately following the completion of the spin-offs or, if not all of the spin-offs are effected substantially simultaneously, immediately following the first spin-off. If the reverse stock split is approved by IAC's stockholders and implemented by IAC's Board of Directors, each two shares of IAC common stock or Class B common stock will be combined into one share of IAC common stock or Class B common stock, respectively. The purpose of implementing the reverse stock split would be to seek to increase the per share trading price of IAC's common stock following the spin-offs relative to what the per share trading price would be if the reverse stock split were not implemented. An increased trading price could increase interest from institutional investors, investment funds and brokerage firms in IAC common stock, lower the transaction costs involved in purchasing IAC common stock and improve the trading liquidity of IAC common stock. There can be no assurance that the reverse stock split would have the effect of increasing the per share trading price of IAC common stock following the spin-offs relative to what the per share trading price would be if the reverse stock split were not implemented.

#### **Material U.S. Federal Income Tax Consequences of the Spin-Offs**

The following section describes the material U.S. federal income tax consequences of the spin-offs to "U.S. holders" (as defined below) of IAC common stock. This summary is based on current

provisions of the Internal Revenue Code of 1986, as amended (the "Code"), final, temporary or proposed U.S. Treasury regulations promulgated thereunder, judicial opinions, published positions of the IRS and all other applicable authorities, all as in effect as of the date of this document and all of which are subject to change, possibly with retroactive effect. Any such change could affect the accuracy of the statements and conclusions set forth in this document.

For purposes of this discussion, the term "U.S. holder" means a beneficial owner of IAC common stock that is, for U.S. federal income tax purposes:

- an individual who is a citizen or resident of the United States;
- a corporation, or other entity taxable as a corporation for U.S. federal income tax purposes, created or organized under the laws of the United States, any state thereof, or the District of Columbia;
- an estate, the income of which is subject to U.S. federal income tax regardless of its source; or
- a trust if (1) a court within the United States is able to exercise primary supervision over the administration of the trust and one or more U.S. persons have the authority to control all substantial decisions of the trust or (2) it has a valid election in effect under applicable U.S. Treasury regulations to be treated as a U.S. person.

If an entity or arrangement that is treated as a partnership for U.S. federal income tax purposes holds IAC common stock, the tax treatment of a partner in such entity generally will depend on the status of the partners and the activities of the partnership. If you are a partner in a partnership holding IAC common stock, please consult your tax advisor.

This discussion only addresses holders of IAC common stock that are U.S. holders and hold such stock as a capital asset within the meaning of Section 1221 of the Code. Further, this summary does not address all aspects of U.S. federal income taxation that may be relevant to a holder in light of the holder's particular circumstances or that may be applicable to holders subject to special treatment under U.S. federal income tax law (including, for example, persons that are not U.S. holders, financial institutions, dealers in securities, traders in securities that elect mark-to-market treatment, insurance companies, mutual funds, tax-exempt organizations, partnerships or other flow-through entities and their partners or members, U.S. expatriates, holders liable for the alternative minimum tax, holders whose functional currency is not the U.S. dollar, and holders who hold their IAC common stock as part of a hedge, straddle, constructive sale or conversion transaction, or holders who acquired IAC common stock pursuant to the exercise of employee stock options or otherwise as compensation). This discussion does not address the tax consequences to any person who actually or constructively owns more than 5% of IAC common stock. In addition, no information is provided herein with respect to the tax consequences of the spin-offs under applicable state, local or non-U.S. laws or federal laws other than those pertaining to the federal income tax.

**IAC STOCKHOLDERS SHOULD CONSULT THEIR TAX ADVISORS REGARDING THE TAX CONSEQUENCES OF THE SPIN-OFFS TO THEM, INCLUDING THE EFFECTS OF U.S. FEDERAL, STATE AND LOCAL, FOREIGN AND OTHER TAX LAWS.**

IAC has requested and expects to receive, prior to effecting any of the spin-offs, a private letter ruling from the IRS and/or an opinion of counsel satisfactory to the IAC board of directors regarding the qualification of the spin-offs, together with certain related transactions, as transactions that are generally tax free for U.S. federal income tax purposes under Sections 355 and/or 368(a)(1)(D) of the Code. If the private letter ruling is received prior to the spin-offs, IAC expects to receive an opinion of counsel regarding certain aspects of the transaction that are not covered by the private letter ruling. If the private letter ruling is not received prior to the spin-offs, IAC expects to receive an opinion of counsel regarding the qualification of the spin-offs as transactions that are generally tax free for U.S.

federal income tax purposes under Sections 355 and/or 368(a)(1)(D) of the Code, and opinions from its external tax advisors regarding the U.S. federal income tax consequences to IAC of certain related matters and transactions, and certain state tax consequences to IAC of the spin-offs.

***Certain U.S. Federal Income Tax Consequences if Each of the Spin-Offs Qualifies as a Transaction that Is Generally Tax Free under Sections 355 and/or 368(a)(1)(D) of the Code***

Assuming that each of the spin-offs qualifies as a transaction that is generally tax free for U.S. federal income tax purposes under Sections 355 and/or 368(a)(1)(D) of the Code:

- no gain or loss will be recognized by, and no amount will be includible in the income of IAC as a result of the spin-offs, other than gain or income arising in connection with certain internal restructurings undertaken in connection with the spin-offs and with respect to any "excess loss account" or "intercompany transaction" required to be taken into account by IAC under U.S. Treasury regulations relating to consolidated federal income tax returns;
- an IAC stockholder will not recognize income, gain, or loss as a result of the receipt of Spinco common stock pursuant to the spin-offs, except with respect to any cash received in lieu of fractional shares of Spinco common stock;
- an IAC stockholder's aggregate tax basis in such stockholder's Spinco common stock received in the spin-offs (including any fractional share interests in Spinco common stock for which cash is received) will equal such stockholder's aggregate tax basis in its IAC common stock immediately before the spin-offs, allocated between the IAC common stock and the common stock of each Spinco (including any fractional share interest of Spinco common stock for which cash is received) in proportion to their relative fair market values on the date of the spin-offs;
- an IAC stockholder's holding period for Spinco common stock received in the spin-offs (including any fractional share interests of Spinco common stock for which cash is received) will include the holding period for that stockholder's IAC common stock; and
- an IAC stockholder who receives cash in lieu of a fractional share of Spinco common stock in the spin-offs will be treated as having sold such fractional share for cash, and will generally recognize capital gain or loss in an amount equal to the difference between the amount of cash received and the IAC stockholder's adjusted tax basis in the fractional share of Spinco common stock. Such gain or loss will be long-term capital gain or loss if the stockholder's holding period for its Spinco common stock exceeds one year.

If an IAC stockholder holds different blocks of IAC common stock (generally, shares of IAC common stock acquired on different dates or at different prices), such holder should consult its tax advisor regarding the determination of the basis and holding period of shares of Spinco common stock received in the spin-offs in respect of particular blocks of IAC common stock.

U.S. Treasury regulations require IAC stockholders who receive Spinco common stock in the spin-offs to attach to their U.S. federal income tax returns for the year in which the Spinco stock is received a detailed statement setting forth such data as may be appropriate to demonstrate the applicability of Section 355 of the Code to the spin-offs.

***Certain U.S. Federal Income Tax Consequences If One or More of the Spin-Offs Were Taxable***

The IRS private letter ruling and/or the opinion of counsel will be based on, among other things, certain assumptions as well as on the accuracy of certain representations and statements that IAC and the Spincos make to the IRS and to counsel. If any of these representations or statements are, or become, inaccurate or incomplete, or if IAC or the Spincos breach any of their respective covenants, the IRS private letter ruling and/or the opinion of counsel may be invalid.

Moreover, the IRS private letter ruling would not address all the issues that are relevant to determining whether the spin-offs qualify as transactions that are generally tax free for U.S. federal income tax purposes. Notwithstanding the IRS private letter ruling and/or opinion, the IRS could determine that one or more of the spin-offs should be treated as a taxable distribution if it determines that any of the representations, assumptions or undertakings that were included in the request for the private letter ruling is false or has been violated or if it disagrees with the conclusions in the opinion of counsel that are not covered by the IRS ruling.

If the IRS were to assert successfully that one or more of the spin-offs were taxable, the above consequences would not apply with respect to such spin-off and both IAC and holders of IAC common stock who received shares of Spinco common stock in such spin-off could be subject to tax, as described below. In addition, certain events that may or may not be within the control of IAC or a Spinco, including extraordinary purchases of IAC common stock or Spinco common stock, could cause one or more of the spin-offs not to qualify as tax free to IAC and/or holders of IAC common stock. Depending on the circumstances, a Spinco may be required to indemnify IAC and the other Spincos for some or all of the taxes and certain related losses resulting from the spin-off of such Spinco not qualifying as tax free under Sections 355 and/or 368(a)(1)(D) of the Code. See "Certain Relationships and Related Party Transactions—Tax Sharing Agreement." If a spin-off were taxable, then:

- IAC would recognize gain in an amount equal to the excess of the fair market value of Spinco common stock on the date of the spin-off distributed to IAC stockholders over IAC's adjusted tax basis in the stock of such Spinco, and IAC may also recognize income or gain with respect to certain restructuring transactions undertaken in connection with such spin-off;
- each IAC stockholder who received Spinco common stock in the taxable spin-off would be treated as having received a taxable distribution in an amount equal to the fair market value of such Spinco stock (including any fractional shares sold on behalf of the stockholder) on the spin-off date. That distribution would be taxable to the stockholder as a dividend to the extent of IAC's current and accumulated earnings and profits (as increased to reflect any current income, including any gain, recognized by IAC on the taxable spin-off). Any amount that exceeded IAC's earnings and profits would be treated first as a non-taxable return of capital to the extent of the IAC stockholder's tax basis in its IAC common stock with any remaining amounts being taxed as capital gain;
- certain stockholders could be subject to additional special rules, such as rules relating to the dividends received deduction and extraordinary dividends; and
- a stockholder's tax basis in Spinco common stock received generally would equal the fair market value of Spinco common stock on the spin-off date, and the holding period for that stock would begin the day after the spin-off date.

Even if one or more spin-offs otherwise qualify as transactions that are generally tax free for U.S. federal income tax purposes under Sections 355 and/or 368(a)(1)(D) of the Code, they could be taxable to IAC under Section 355(e) of the Code if one or more persons were to acquire directly or indirectly stock representing a 50% or greater interest, by vote or value, in IAC or one of the Spincos during the four-year period beginning on the date which is two years before the date of the spin-off, as part of a plan or series of related transactions that includes the spin-off. If such an acquisition of IAC stock or Spinco stock were to trigger the application of Section 355(e), IAC would recognize taxable gain as described above, but the spin-offs would be tax free to IAC stockholders. In addition, the IRS could disagree with or challenge the conclusions reached in one or more of the tax opinions that IAC expects to receive with respect to certain related matters and transactions. In such case, IAC could recognize material amounts of taxable income or gain.

In connection with the spin-offs, IAC and the Spincos will enter into a Tax Sharing Agreement. Under the Tax Sharing Agreement, each Spinco will have to indemnify IAC and the other Spincos for any taxes resulting from the spin-off of such Spinco (and any related interest, penalties, legal and professional fees, and all costs and damages associated with related stockholder litigation or controversies) to the extent such amounts result from (i) any act or failure to act by such Spinco described in the covenants in the Tax Sharing Agreement, (ii) any acquisition of equity securities or assets of such Spinco or a member of its group, or (iii) any breach by such Spinco or any member of its group of any representation or covenant contained in the separation documents or in the documents relating to the IRS private letter ruling and/or tax opinions. The ability of IAC or any of the Spincos to collect under these indemnity provisions will depend on the financial position of the indemnifying party. See "Certain Relationships and Related Party Transactions—Tax Sharing Agreement."

**THE FOREGOING IS A SUMMARY OF CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE SPIN-OFFS UNDER CURRENT LAW AND IS FOR GENERAL INFORMATION ONLY. THE FOREGOING DOES NOT PURPORT TO ADDRESS ALL U.S. FEDERAL INCOME TAX CONSEQUENCES OR TAX CONSEQUENCES THAT MAY ARISE UNDER THE TAX LAWS OF OTHER JURISDICTIONS OR THAT MAY APPLY TO PARTICULAR CATEGORIES OF STOCKHOLDERS. EACH IAC STOCKHOLDER SHOULD CONSULT ITS TAX ADVISOR AS TO THE PARTICULAR TAX CONSEQUENCES OF THE SPIN-OFFS TO SUCH STOCKHOLDER, INCLUDING THE APPLICATION OF U.S. FEDERAL, STATE, LOCAL AND FOREIGN TAX LAWS, AND THE EFFECT OF POSSIBLE CHANGES IN TAX LAWS THAT MAY AFFECT THE TAX CONSEQUENCES DESCRIBED ABOVE.**

#### **Market for Common Stock of HSNi**

There is currently no public market for the HSNi common stock. We have been approved to list our common stock on NASDAQ under the symbol "HSNI." The HSNi common stock has been approved for inclusion in the global select market tier of the Nasdaq Stock Market.

#### **Trading Before the Distribution Date**

Beginning on or shortly before the record date and continuing through the distribution date, it is expected that there will be two markets in IAC common stock: a "regular-way" market and an "ex-distribution" market. Shares of IAC common stock that trade on the regular-way market will trade with an entitlement to shares of the common stock of the Spincos distributed pursuant to the spin-offs. Shares that trade on the ex-distribution market will trade without an entitlement to shares of the common stock of the Spincos distributed pursuant to the spin-offs. Therefore, if you sell shares of IAC common stock in the "regular-way" market up to and including through the distribution date, you will be selling your right to receive shares of the common stock of the Spincos in the spin-offs. If you own shares of IAC common stock at the close of business on the record date and sell those shares on the "ex-distribution" market, up to and including through the distribution date, you will still receive the shares of the common stock of the Spincos that you would be entitled to receive pursuant to your ownership of the shares of IAC common stock.

Furthermore, beginning shortly before the distribution date and continuing up to and including through the distribution date, it is expected that there will be a "when-issued" market in the common stock of each of the Spincos. "When-issued" trading refers to a sale or purchase made conditionally because the security has been authorized but not yet issued. The "when-issued" trading market will be a market for shares of Spinco common stock that will be distributed to IAC stockholders on the distribution date. If you owned shares of IAC common stock at the close of business on the record date, you would be entitled to shares of the Spincos' common stock distributed pursuant to the spin-offs. You may trade this entitlement to shares of common stock of all or any of the Spincos, without the shares of IAC common stock you own, on the "when-issued" market. On the first trading day following the distribution date, "when-issued" trading with respect to Spinco common stock will end and "regular-way" trading will begin.



## Conditions to the Spin-Offs

The IAC Board of Directors has reserved the right, in its sole discretion, to amend, modify or abandon the spin-offs and the related transactions at any time prior to the distribution date. This means IAC may cancel or delay the planned distribution of common stock of all or any of the Spincos if at any time the Board of Directors of IAC determines that the distribution of such common stock is not in the best interests of IAC and its stockholders. If IAC's Board of Directors determines to cancel the spin-off of a Spingo, stockholders of IAC will not receive any dividend of common stock of such Spingo and IAC will be under no obligation whatsoever to its stockholders to distribute such shares.

Absent a determination of IAC's Board of Directors to the contrary, the Spincos expect that the spin-offs will be effective on [ • ], 2008, the distribution date. In addition, the spin-offs and related transactions are subject to the satisfaction or waiver (by IAC's Board of Directors in its sole discretion) of the following conditions:

- the registration statement on Form S-1 filed by each of the Spincos with respect to its common shares shall have been declared effective by the SEC or become effective under the Securities Act of 1933, as amended (the "Securities Act"), no stop order suspending the effectiveness of such registration statement shall have been issued and no proceedings for that purpose shall have been instituted or threatened by the SEC;
- the common stock of each of the Spincos shall have been accepted for listing on NASDAQ, subject to compliance with applicable listing requirements;
- no order or other legal restraint or prohibition preventing the consummation of any of the spin-offs or related transactions shall be threatened, pending or in effect;
- any material consents and governmental authorizations necessary to complete the spin-offs shall have been obtained and be in full force and effect;
- the stockholders of IAC shall have approved, in accordance with the Delaware General Corporation Law (the "DGCL"), a merger agreement providing for the merger of a wholly-owned subsidiary of IAC with and into IAC pursuant to which all of the outstanding shares of preferred stock of IAC shall be converted into the right to receive cash;
- the IAC Board of Directors shall have received a written solvency opinion, in form and substance acceptable to the IAC Board of Directors, from Duff & Phelps regarding the spin-offs and related transactions, which opinion shall not have been withdrawn or modified;
- IAC shall have received an opinion of Wachtell, Lipton, Rosen & Katz, in form and substance satisfactory to the IAC Board of Directors, regarding the qualification of the spin-offs as transactions that are generally tax free for U.S. federal income tax purposes under Sections 355 and/or 368(a)(1)(D) of the Code (to the extent such qualification is not addressed by an Internal Revenue Service private letter ruling (the "IRS Ruling") received by IAC), which opinion (and, in the event IAC shall have received the IRS Ruling, the IRS Ruling) shall not have been withdrawn or modified;
- IAC shall have received opinions from its external tax advisors, in form and substance satisfactory to the IAC Board of Directors regarding the U.S. federal income tax consequences to IAC of certain related matters and transactions (to the extent such matters are not addressed by the IRS Ruling) and certain state tax consequences to IAC of the spin-offs, which opinions shall not have been withdrawn or modified; and
- IAC shall have received an opinion of Delaware counsel to IAC, in form and substance satisfactory to the IAC Board of Directors, to the effect that the spin-offs do not require approval of the stockholders of IAC under Section 271 of the DGCL.

## Reasons for the Separation

During the fall of 2007, IAC's management, in reviewing the strategic agendas and prospects of its various businesses, concluded that a separation of IAC into five separately traded public companies would best facilitate growth of the businesses. After discussion with the IAC Board of Directors, the Board agreed. Among the factors considered in arriving at this determination were:

- While the Spinco's share common attributes, both with each other and with IAC, they generally face different strategic and competitive challenges. As a result, IAC management and the IAC Board determined that, in IAC's current configuration, when facing strategic and operating issues for a particular business, whether having to do with transactional alternatives, capital investment, new business initiatives, compensation or otherwise, considerations of the other businesses and of the company as a whole had the potential to lead to different decisions than might be made by standalone companies. IAC concluded, therefore, that the current structure may not be the most responsive to the exigencies of each business and that the spin-offs will enhance the success of each business by enabling IAC and the Spinco's to resolve the problems that arise from the operation of different businesses within the IAC group.
- The lack of a liquid equity currency linked directly to the individual businesses constrained each business' ability to transact in its own industry and to provide equity-based incentive programs for employees that were entirely dependent on the performance of the specific business.
- While efforts were underway to increase the benefits to each business resulting from being a part of IAC, including through cost savings, better talent development and deployment, increased business opportunities, and other initiatives, the common attributes of the Spinco's were more limited than initially believed, and there was therefore a limit to the benefits to be realized from such integration and the time horizon for realizing such benefits was substantially longer than IAC had initially believed.
- IAC believed that its stock performance during recent years did not reflect its operating performance or the true value of its businesses. IAC believed that this was in part because of the complexity involved in understanding a variety of businesses represented by a single equity investment, and that increased transparency and clarity into the different businesses of IAC would allow investors to more appropriately value the merits, performance and future prospects of the companies.

Because IAC concluded that the separation of these businesses would over time enhance their operating performance, open up strategic alternatives that may otherwise not have been readily available to them, and facilitate investor understanding and better target investor demand, IAC believes that following the spin-offs, the common stock of the five publicly traded companies will have a higher aggregate market value than would IAC if it were to remain in its current configuration. No assurances, however, can be given that such higher aggregate market value will be achieved. The IAC Board of Directors believes that such value increase would further facilitate growth of the separated businesses by reducing the costs of equity compensation and acquisitions undertaken with equity consideration, in each case resulting in a real and substantial benefit for the companies.

The IAC Board of Directors considered a number of other potentially negative factors in evaluating the separation, including loss of synergies from operating as one company, potential disruptions to the businesses as a result of the separation, the potential impact of the separation on the anticipated credit ratings of the Spinco's, risks of being unable to achieve the benefits expected to be achieved by the separation and the reaction of IAC stockholders to the separation, the risk that the plan of execution might not be completed and the one-time and ongoing costs of the separation. The IAC Board of Directors concluded that the anticipated benefits of the spin-offs outweighed these factors. In view of the wide variety of factors considered in connection with the evaluation of the

separation and the complexity of these matters, the IAC Board of Directors did not find it useful to, and did not attempt to, quantify, rank or otherwise assign relative weights to the factors considered. The individual members of the IAC Board of Directors likely may have given different weights to different factors.

### **Litigation with Liberty Media Corporation**

In January 2008, IAC, Barry Diller and Liberty Media Corporation ("Liberty") commenced actions in the Delaware Chancery Court in which Liberty asserted, among other things, that Mr. Diller, the Chairman and CEO of IAC, had breached an agreement between Liberty and him and that therefore Liberty had assumed the right to exercise voting control over IAC. The basis for this claim was that IAC did not have the right to consummate the spin-offs with a single class voting structure and therefore acts in furtherance of the transaction had breached the agreement. After a chancery court decision in IAC and Mr. Diller's favor on March 28, 2008, the parties agreed, on May 13, 2008, to settle that litigation pursuant to the "Spinco Agreement." As described in more detail below under "Certain Relationships and Related Party Transactions—Agreements with Liberty Media Corporation," the Spinco Agreement also contains, among other things, provisions that will become effective at the time of the spin-off of each Spinco with a single class of common stock, including provisions providing Liberty the right to nominate directors to the Spinco's Board of Directors so long as Liberty maintains specified ownership levels, restrictions on acquisitions and transfers of the securities of the Spinco by Liberty and its affiliates, certain standstill restrictions on Liberty and its affiliates and registration rights to be granted to Liberty.

### **Financial Advisor**

Allen & Company LLC provided financial advice in connection with the spin-offs. Allen & Company was retained in connection with the transaction because of the firm's familiarity with the businesses and assets of IAC and the Spinco's and the firm's qualifications and reputation. IAC and Allen & Company have not yet determined the amount of fees to be paid to Allen & Company in connection with its engagement. IAC expects to pay Allen & Company a customary fee.

### **TREATMENT OF OUTSTANDING IAC COMPENSATORY EQUITY-BASED AWARDS**

In November of 2007, IAC's Compensation and Human Resources Committee (the "Committee") made determinations regarding the treatment in the spin-offs of IAC's compensatory equity-based awards granted on or prior to December 31, 2007. The various adjustments the Committee has determined to make are described below:

- (1) All unvested IAC restricted stock units ("RSUs") granted prior to August 2005 will vest immediately prior to the spin-offs, with awards thereafter settled, in accordance with applicable law, in shares of common stock of IAC, HSNi, ILG, Ticketmaster and Tree.com, in each case as though the equity holder owned the number of shares of IAC common stock underlying the IAC RSU award immediately prior to the spin-offs. Based on the most recent available information, it is expected that at the time of the spin-offs HSNi employees, ILG employees, Ticketmaster employees and Tree.com employees will hold 225,233 RSUs, 116,008 RSUs, 328,887 RSUs and 394,110 RSUs, respectively, subject to this treatment.
- (2) All unvested IAC RSUs scheduled to vest through February 2009 will vest immediately prior to the spin-offs, with awards thereafter settled, in accordance with applicable law, in shares of common stock of IAC, HSNi, ILG, Ticketmaster and Tree.com, in each case as though the equity holder owned the number of shares of IAC common stock underlying the IAC RSU award immediately prior to the spin-offs. Based on the most recent available information, it is expected that at the time of the spin-offs HSNi employees, ILG employees, Ticketmaster

employees and Tree.com employees will hold 78,772 RSUs, 39,685 RSUs, 98,306 RSUs and 32,816 RSUs, respectively, subject to this treatment.

- (3) Performance-based IAC RSUs granted in 2007, or Growth Shares, will be converted into non-performance-based IAC RSUs based on "target" value with the same vesting schedule and will thereafter be subject to the other adjustment and conversion provisions described below. Based on the most recent available information, it is expected that at the time of the spin-offs HSNi employees will hold 153,464 RSUs subject to this treatment.
- (4) With respect to each IAC RSU award that provides for vesting of 100% of the award following passage of a multi-year period (cliff vesting awards), the portion of the unvested IAC RSU award that would have vested through February 2009 if the award had vested on an annual basis will convert into five separate RSU awards with respect to IAC and each of the Spincos, based on the applicable distribution ratios in the spin-offs and the two-for-one reverse stock split at IAC, but will otherwise have the same vesting terms and other applicable terms and conditions. Based on the most recent available information, it is expected that at the time of the spin-offs HSNi employees, ILG employees, Ticketmaster employees and Tree.com employees will hold 164,907 RSUs, 118,035 RSUs, 193,104 RSUs and 110,203 RSUs, respectively, subject to this treatment (inclusive of converted Growth Shares).
- (5) With respect to all other IAC RSUs that do not vest or convert pursuant to paragraphs (1), (2) or (4) above, the IAC RSUs will convert into an RSU award with respect to shares of common stock of the company that continues to employ the equity holder following the spin-offs, with appropriate adjustments to the number of shares of common stock underlying each such award to maintain pre- and post spin-off values, but otherwise preserving the same vesting terms and other applicable terms and conditions. Based on the most recent available information, it is expected that at the time of the spin-offs HSNi employees will hold 365,071 RSUs subject to this treatment (inclusive of converted Growth Shares); and
- (6) All unexercised option awards, whether vested or unvested, will be split among IAC and each of the Spincos based on relative value at the time of the spin-offs, with appropriate adjustments to the number of shares of common stock underlying each such award and the per share exercise price of each such award to maintain pre- and post spin-off values, but otherwise preserving the same vesting terms and other applicable terms and conditions. Based on the most recent available information, it is expected that at the time of the spin-offs HSNi employees, ILG employees, Ticketmaster employees and Tree.com employees will hold 734,633 options, 0 options, 816,784 options and 451,885 options, respectively, subject to this treatment.

With respect to any IAC compensatory equity-based awards granted after December 31, 2007, those awards will convert into awards with respect to shares of common stock of the company that continues to employ the equity holder following the spin-offs, with appropriate adjustments to the number of shares underlying each such award and the per share exercise price of each such award (with respect to options) to maintain pre- and post spin-off values, but otherwise preserving the same vesting terms and other applicable terms and conditions. Based on the most recent available information, it is expected that at the time of the spin-offs HSNi employees will hold 154,643 RSUs and 1,365,500 options subject to this treatment. With respect to stock options, the number of shares of common stock subject to any adjusted stock option will be rounded down to the nearest whole share. With respect to restricted stock units that do not vest in connection with the spin-offs, the number of shares of common stock subject to any adjusted restricted stock unit will be rounded up to the nearest whole share. With respect to restricted stock units that vest in connection with the spin-offs, the number of shares of common stock that an individual will be entitled to receive in connection with the spin-offs will be rounded up to the nearest whole share.

In the event that IAC abandons the spin-off with respect to one or more Spinco's, the adjustments set forth above will apply as described above except that there will be no conversion of IAC equity awards into equity awards of a Spinco that IAC does not spin-off and employees of any such Spinco will be treated as employees of IAC for purposes of the foregoing adjustments.

The treatment of IAC compensatory equity-based awards held by persons who will be employed by IAC immediately following the spin-offs is generally similar to that described above, with certain adjustments intended to provide retention incentives for IAC corporate employees.

The principal objective of the Committee in making these adjustments was one of fairness, with some of the particular considerations being:

- A desire to reward service prior to the spin-offs with stock of the companies that made up IAC before the spin-offs, and reward service after the spin-offs with stock of the company for which an employee will work after the spin-offs;
- A recognition that the primary motivation for the Growth Share grants, which was to provide increased incentives for employees to focus on the total performance of the entire IAC conglomerate as opposed to the individual businesses for which they worked through increased volatility of potential rewards, no longer was present given the determination to do the spin-offs;
- An interest in eliminating the complexities that would be associated with adjusting the 2007 performance conditions among five separate public companies and the possibility that such adjustments would not be equitable to all holders of the awards; and
- Compliance with the terms of the applicable equity plans, tax laws and accounting requirements.

#### **DIVIDEND POLICY**

We do not currently expect to pay a regular cash dividend. The declaration and payment of future dividends to holders of common stock of the Company will be at the discretion of our board of directors and will depend upon many factors, including our financial condition, earnings, capital requirements of our businesses, covenants associated with certain debt obligations, legal requirements, regulatory constraints, industry practice and other factors that our board of directors deems relevant.

## TRANSFERS TO IAC AND FINANCING

It is currently expected that in connection with the spin-offs, HSNi will distribute to IAC approximately \$324 million in cash, and Ticketmaster and an entity that will become a subsidiary of ILG prior to the spin-offs will make certain distributions to IAC. To fund these distributions, each of these Spinco's has entered into financing arrangements, which in the case of HSNi are described below. Additionally, each of these companies may distribute some amount of cash on hand, but these amounts are not presently knowable and are unlikely to be material. The borrowing arrangements for HSNi consist of a combination of secured credit facilities and privately-issued debt securities. HSNi, the borrowing subsidiary of ILG and Ticketmaster are each also expected to dividend to IAC prior to the spin-offs all net receivables owed them by IAC and its affiliates.

Prior to HSNi making its distribution to IAC, the funds escrowed from the issuance of debt securities by HSNi must be released and certain amounts under the credit facilities of HSNi must be drawn down. In order for the escrowed funds to be released to HSNi, it must deliver a certificate to the effect that the spin-off of HSNi will be consummated within five business days of such certificate on terms that are not materially adverse to the holders of the notes from the terms described in the offering memorandum related to such notes and no default or event of default under the indenture related to such notes has occurred. In order for HSNi to draw down amounts under its secured credit facilities, it must deliver a certificate to the effect that no material adverse effect has occurred (subject to certain scheduled exceptions).

IAC also is expected to make a cash contribution to Tree.com.

These dividends and cash contributions were determined by IAC after an assessment of the optimal capital structure for HSNi and for IAC, taking into account each company's cash flow prospects, working capital and other cash needs, potential acquisition agenda and other relevant factors.

*Set forth below is a summary of the principal terms of the agreements that govern the senior secured credit facilities that have been entered into in connection with the HSNi spin-off. This summary is not a complete description of all of the terms of the relevant agreements.*

### **HSNi Senior Secured Credit Facilities**

HSNi is the borrower under new senior secured credit facilities. The senior secured credit facilities are provided by a syndicate of banks and other financial institutions, with Bank of America acting as lead lender. The senior secured credit facilities provide financing of up to \$300.0 million, consisting of \$150.0 million in term loans with a maturity of five years and a \$150.0 million revolving credit facility with a maturity of five years. In addition, subject to certain conditions, including compliance with certain financial covenants, the senior secured credit facilities permit HSNi to incur incremental term and revolving loans under such facilities in an aggregate principal amount of up to \$75.0 million. There is currently no commitment in respect of these incremental loans nor is one currently anticipated to be in place upon the consummation of HSNi's spin-off.

The net proceeds of the term loan portion of the senior secured credit facilities will be used, together with the net proceeds of the notes, to fund a distribution to IAC, to fund transaction fees and expenses and for ongoing working capital and other general corporate purposes. Funds drawn from the revolving credit facility will be used for working capital and general corporate purposes.

#### *Interest Rate and Fees*

The interest rates per annum applicable to loans under the senior secured credit facilities are, at HSNi's option, equal to either a base rate or a LIBOR rate plus an applicable margin, which will vary with the total leverage ratio of HSNi (but fixed at 2.75% (2.25%) per annum for LIBOR term

(revolving) loans and 1.75% (1.25%) per annum for base rate term (revolving) loans until HSNi delivers financial statements for the first full fiscal quarter after the closing date for the senior secured credit facilities). The alternate base rate means the greater of the rate as quoted from time to time by Bank of America, N.A. as its prime rate and one-half of 1.0% over the federal funds rate.

Starting on the closing date for the senior secured credit facilities, HSNi will also be required to pay facility fees on the revolving credit facility under the senior secured credit facilities. A commitment fee will be owed in respect of the term loan until the term loan is drawn on the funding date.

#### *Prepayments*

The senior secured credit facilities require HSNi to prepay outstanding term loans, subject to certain exceptions (including a right of reinvestment of asset sale proceeds in HSNi's business), with the proceeds of certain asset sales, casualty insurance and recovery events, the incurrence of certain indebtedness and a percentage of annual excess cash flow (which may be reduced to 0% upon the achievement of a specified leverage ratio).

In the event HSNi's spin-off will not have occurred on or before the 5th business day following the funding date of the senior secured credit facilities, then on such date, HSNi will be required to prepay all loans under the senior secured credit facilities and the commitments under the revolving credit facility will be permanently reduced to zero.

#### *Amortization*

The term loans will amortize in an amount equal to 10% of the original principal amount during 2009, 15% of in 2010, 20% in 2011, 20% in 2012 and 35% in 2013. No term loan amortization payments are due in 2008. The amortization of the term loans for each year is payable in equal quarterly installments, except that the amortization for 2013 will be paid in equal installments at each quarter end in 2013 prior to the maturity date for the term loans and on the maturity date of the term loans.

Any voluntary prepayments made on the term loans from time to time may be applied against otherwise scheduled amortization obligations. Principal amounts outstanding under the revolving credit facility are due and payable in full at maturity, five years from the date of the closing of the senior secured credit facilities.

#### *Guarantee and Security*

All obligations under the senior secured credit facilities are unconditionally guaranteed by each of HSNi's existing and future direct and indirect domestic subsidiaries, subject to certain exceptions. All obligations of HSNi under the senior secured credit facilities and the guarantees of those obligations are secured by (subject to certain exceptions) a first priority pledge of all of the equity interests of each of the domestic subsidiaries of HSNi; a first priority pledge of 65% of the equity interests of each of the first-tier foreign subsidiaries of HSNi; and a first priority security interest in substantially all of the other assets of HSNi and each guarantor.

#### *Certain Covenants and Events of Default*

The senior secured credit facilities contain customary covenants that, among other things, restrict, subject to certain exceptions, the ability of HSNi and its subsidiaries to grant liens on their assets, incur indebtedness, sell assets, make investments, engage in acquisitions, mergers or consolidations, pay dividends and other restricted payments and prepay unsecured indebtedness. The senior secured credit facilities have two financial covenants: a maximum total leverage ratio of 2.75 to 1.00 and a minimum

interest coverage ratio of 3.00 to 1.00. The senior secured credit facilities also contain certain customary affirmative covenants and events of default, including the occurrence of a change of control.

*Set forth below is a summary of the principal terms of the agreements that govern the privately-issued debt arrangements for HSNi entered into in connection with the spin-off. This summary is not a complete description of all of the terms of the relevant agreements.*

#### **HSNi 11.25% Senior Notes**

*Overview.* In connection with the spin-off of HSNi, HSNi has issued \$240,000,000 aggregate principal amount of 11.25% Senior Notes due 2016. Interest is payable semi-annually in cash in arrears on August 1 and February 1 of each year, commencing February 1, 2009. The notes will be guaranteed by all entities that will be domestic subsidiaries of HSNi following the completion of the spin-off of HSNi.

*Ranking.* The notes and guarantees are general unsecured obligations of HSNi and the guarantors, respectively, and:

- rank senior to all future debt of HSNi and all existing and future debt of the guarantors, in each case, that is expressly subordinated in right of payment to the notes;
- rank equally in right of payment with all existing and future liabilities of HSNi and the guarantors that are not so subordinated;
- are effectively subordinated to all secured debt (to the extent the value of the collateral securing such debt) of HSNi (including HSNi's senior secured credit facilities) and the guarantors (including the guarantees under HSNi's senior secured credit facilities); and
- are structurally subordinated to all of the existing and future liabilities of HSNi's foreign subsidiaries, none of which guarantee the notes.

*Redemption.* The notes are redeemable by HSNi, in whole or in part, on or after August 1, 2012 at the following prices (expressed as percentages of the principal amount), plus accrued and unpaid interest, on August 1 of the following years: 105.625% (2012), 102.813% (2013) and 100.000% (2014 and thereafter). At any time and from time to time prior to August 1, 2012, the notes are redeemable by HSNi at a redemption price equal to 100% of the principal amount (together with accrued and unpaid interest) plus the greater of (i) 1.0% of the principal amount of such note and (ii) the excess, if any, of (A) an amount equal to the present value of (1) the redemption price of such note at August 1, 2012, plus (2) the remaining scheduled interest payments on the notes to be redeemed (subject to the right of holders on the relevant record date to receive interest due on the relevant interest payment date) to August 1, 2012 (other than interest accrued to the redemption date), computed using a discount rate equal to the Treasury Rate plus 50 basis points; over (B) the principal amount of the notes to be redeemed. In addition, up to 35% of the notes are redeemable by HSNi before August 1, 2011 at a price equal to 111.25% of their principal amount, plus accrued and unpaid interest. HSNi must also offer to redeem the notes at 101% of their principal amount, plus accrued and unpaid interest, if it experiences certain kinds of changes of control. Lastly, if HSNi or certain of its subsidiaries (specifically, those that will be designated restricted subsidiaries under the indenture governing the notes) sell assets and do not apply the sale proceeds in a specified manner within a specified time, HSNi is required to make an offer to purchase notes at their face amount, plus accrued and unpaid interest to the purchase date.

*Certain Covenants.* The indenture governing the notes contains covenants that limit, among other things, HSNi's ability and the ability of its restricted subsidiaries to incur additional debt; pay dividends on HSNi capital stock or repurchase HSNi capital stock; make certain investments; grant liens on HSNi's assets; sell certain assets; merge, consolidate or sell all or substantially all of HSNi's assets; and



engage in transactions with affiliates on terms that are not arm's length. Certain covenants, including those pertaining to incurrence of indebtedness, the payment of dividends and stock repurchases, asset sales, mergers and transactions with affiliates will be suspended during any period in which the notes are rated investment grade by both rating agencies and no default or event of default under the indenture has occurred and is continuing.

*Escrow of Proceeds; Special Mandatory Redemption.* HSNi has entered into an escrow agreement pursuant to which it has deposited into escrow an amount equal to the net proceeds of the offering of the notes sold, plus an additional amount sufficient to redeem the notes in cash at the special mandatory redemption price, which is equal to 100% of the principal amount of the notes, plus accrued and unpaid interest on the notes to the day prior to redemption (as described below), assuming the special mandatory redemption occurs on October 14, 2008. Amounts held in escrow will be released upon notice from HSNi to the escrow agent that the spin-off will be consummated within five business days and that no default or event of default under the indenture has occurred and is continuing. If (i) IAC elects to abandon the spin-off or otherwise fails to deliver to the escrow agent the notice referred to above on or before September 30, 2008 or (ii) if the spin-off of HSNi is not consummated within five business days after the receipt of such notice, then, within 10 business days after the relevant date, HSNi will redeem all of the notes at the special mandatory redemption price.

## CERTAIN INFORMATION WITH RESPECT TO HSNi

### BUSINESS OF HSNi

When used with respect to any periods following the spin-offs and unless otherwise indicated, the term "HSNi" refers to HSN, Inc., a Delaware corporation, which was incorporated in connection with the spin-offs in May 2008 to hold IAC's retailing businesses, subsidiaries and investments (excluding Shoebuy and Jupiter Shop Channel and certain other equity investments). The following disclosure regarding HSNi's business assumes completion of the spin-offs.

For information regarding the results of operations of HSNi and its segments on a historical basis, see the Combined Financial Statements of HSNi and the disclosure set forth under the caption "—Management's Discussion and Analysis of Financial Condition and Results of Operations of HSNi." For information regarding the results of operations of HSNi on a pro forma basis to give effect to the completion of the spin-offs, see the Unaudited Pro Forma Condensed Combined Financial Statements for HSNi.

#### Who We Are

HSNi owns and operates, through its subsidiaries, HSN, a retailer and interactive lifestyle network offering a broad assortment of products through television home shopping programming on the HSN television network and *HSN.com* ("HSN"). HSN strives to transform the shopping experience by incorporating experts, entertainment, inspiration, solutions, tips and ideas in connection with the sale of products through the HSN television network and *HSN.com*. HSNi also owns and operates, through its subsidiaries, the Cornerstone Brands portfolio of catalogs and related websites, including *Frontgate*, *Ballard Designs*, *Garnet Hill*, *Smith+Noble*, *The Territory Ahead*, *TravelSmith* and *Improvements*, as well as a limited number of retail stores ("Cornerstone").

HSNi has two operating segments, HSN and Cornerstone. For the fiscal year ended December 31, 2007, HSN and Cornerstone represented approximately 65% and 35%, respectively, of HSNi's combined revenue.

#### History

HSNi's predecessor company began broadcasting television home shopping programming from its studios in St. Petersburg, Florida in 1981, and by 1985, was broadcasting this programming through a national network of cable and local television stations 24 hours a day, seven days a week. The company continued to broaden its national distribution network through a combination of cable, satellite and broadcast systems, and as of December 31, 2007, the HSN television network reached approximately 90.6 million homes in the United States.

The company acquired Improvements, a catalog featuring thousands of innovative home, patio and outdoor products, in June 2001, and significantly grew its catalogs business through the acquisition of the Cornerstone Brands portfolio of leading print catalogs and related websites in April 2005.

The company began conducting business online in 1994 and formally launched *HSN.com*, the online shopping portal for the HSN television network, in 1999. In connection with the spin-offs, the company, together with certain other of IAC's Retailing businesses, subsidiaries and investments, were contributed to HSNi.

#### What We Do

HSNi markets and sells a wide range of third party and private label merchandise directly to consumers through HSN, which includes the HSN television network and its related website, *HSN.com*, as well as through Cornerstone.

HSNi is committed to providing an evolving variety and mix of quality products at reasonable prices and brands that resonate with its customers. See "—Marketing and Merchandising." Products

offered through HSN include electronics and housewares, jewelry, beauty, apparel, health, home fashions, accessories, vitamins and other products. Featured products include HSN-branded (or private label) products and third party-branded products, some of which are produced exclusively for HSN, as well as merchandise generally available through other retailers. Generally, the HSN television network and *HSN.com* offer the broadest range of products, while the brands and businesses within Cornerstone primarily offer home furnishings, products and accessories, and casual and leisure apparel.

## **HSN**

### ***Overview***

HSN includes the HSN television network and its related website, *HSN.com*. The HSN television network broadcasts live, customer interactive television home shopping programming 24 hours a day, seven days a week. This programming is intended to promote sales and customer loyalty through a combination of product quality, value and selection, coupled with product information and entertainment. Programming is divided into separately televised segments, each of which has a host who presents and conveys information regarding featured products, sometimes with the assistance of a representative from the product vendor.

### ***Reach***

HSN produces live programming for the HSN television network from its studios in St. Petersburg, Florida and distributes this programming by means of satellite uplink facilities, which it owns and operates, to a satellite transponder leased by HSN on a full-time basis through May 2019. HSN has entered into a long-term satellite transponder lease to provide for continued carriage of the HSN television network on a replacement transponder and/or replacement satellite, as applicable, in the event of a failure of the transponder and/or satellite currently carrying the HSN television network. HSN has also designed business continuity and disaster recovery plans to ensure its continued satellite transmission capability on a temporary basis in the event of inclement weather or a natural or other disaster.

As of December 31, 2006 and 2007, the HSN television network reached approximately 89.0 million and 90.6 million, respectively, of the approximately 111.3 million and 112.8 million homes in the United States with a television set, respectively. Television households reached by the HSN television network as of December 31, 2006 and 2007 primarily include approximately 62.4 million and 62.7 million households capable of receiving cable and/or broadcast transmissions and approximately 26.4 million and 27.8 million direct broadcast satellite system, or DBS, households, respectively.

### ***Pay Television Distribution***

HSN has entered into multi-year distribution and affiliation agreements with cable television and DBS operators, collectively referred to in this document as pay television operators, in the United States to carry the HSN television network, as well as to promote the network by carrying related commercials and distributing related marketing materials to their respective subscriber bases. HSN currently has contracts with many local and national pay television operators to distribute HSN television programming. Some of HSN's larger pay television operators include: Comcast, Time Warner, DirecTV and EchoStar/DISH. HSN television network sales from customers residing in households that subscribed to these larger pay television operators accounted for approximately 30% of HSN's annual revenue in 2007. In exchange for this carriage and related promotional and other efforts, HSN generally pays these pay television operators a fee, which consists of a per subscriber fee plus commissions, which are based on a percentage of the net merchandise sales to their subscriber bases. In some cases, pay television operators receive additional compensation in the form of advertising insertion time on the HSN television network and commission guarantees in exchange for their commitments to deliver a specified number of subscribers. The average overall length of the terms of

the multi-year distribution and affiliation agreements in effect as of June 2008 is 4.6 years. Over time, HSN has moved away from entering into distribution agreements that require the entire distribution fee to be paid at the outset of the contract. Instead, HSN typically negotiates agreements that require HSN to pay monthly or annual fees, which has led to distribution agreements with shorter terms. Distribution and affiliation agreements with major and other pay television operators expire from time to time and renewal and negotiation processes with major pay television operators are typically lengthy. At any given time in the ordinary course of business HSN is likely to be engaged in renewal and/or negotiation processes with one or more pay television operators. HSN is currently engaged in such a process with a major cable pay television operator regarding an agreement that expired in 2005 and, as has typically been the case in similar situations in the past, carriage of the HSN television network has continued (and is expected to continue) under rolling short-term extensions (in this case, month-to-month) pending the conclusion of this process. The ongoing extension of this agreement is on economic terms that are substantially similar to the agreement that expired in 2005. HSN expects that, as in the past, any long-term extension of the agreement will be on terms that, when taken as a whole, are commercially reasonable to HSN and competitive with the economics of other major cable pay television operators.

#### ***Broadcast Television Distribution***

As of December 31, 2007, HSN also had affiliation agreements with 71 low power broadcast television stations for leased carriage of the HSN television network with terms ranging from several weeks to several years. In exchange for this carriage, HSN pays the broadcast television stations hourly or monthly fixed rates. IAC's subsidiary, Ventana Television, Inc. ("Ventana") owns 27 of the 71 low power broadcast television stations that carry the HSN network on a full-time basis. IAC intends to file and receive the appropriate authorization from the Federal Communications Commission ("FCC") before transferring Ventana and its broadcast television licenses to HSNi, as the transfer is subject to FCC approval.

#### ***HSN.com***

HSN also includes *HSN.com*, a transactional e-commerce site that sells merchandise offered on the HSN television network, as well as select merchandise sold exclusively on *HSN.com*. *HSN.com* provides customers with additional content to support and enhance HSN television programming. For example, *HSN.com* provides users with an online program guide, value-added video of product demonstrations, live streaming video of the HSN television network, customer-generated product reviews and additional information about HSN show hosts and guest personalities.

#### **Cornerstone**

Cornerstone consists of a number of branded catalogs and related websites, the primary of which are *Frontgate*, *Ballard Designs*, *Garnet Hill*, *Smith+Noble*, *The Territory Ahead*, *TravelSmith* and *Improvements*, and 26 retail and outlet stores.

Frontgate features premium, high quality bed, bath and kitchen accessories, as well as outdoor, patio, garden and pool furnishings and accessories. Ballard Designs features European-inspired bed, bath, dining and office furnishings and accessories, as well as rugs, shelving and architectural accents for the home. Garnet Hill offers bed and bath furnishings and soft goods, as well as apparel and accessories for women and children, and Smith+Noble offers custom home furnishings and window treatments. The Territory Ahead offers casual apparel for men and women and TravelSmith offers travel wear for men and women and related accessories. Improvements features thousands of innovative home, patio and outdoor products.

The various brands within Cornerstone generally incorporate on-site photography and real-life settings, coupled with related editorial content describing the merchandise and depicting situations in

which it may be used. Branded catalogs are designed and produced in house, which enables each individual brand to control the production process and reduces the amount of lead time required to produce a given catalog.

New editions of full-color catalogs are mailed to customers several times each year, with a total annual circulation in 2007 of approximately 400 million catalogs. The timing and frequency of catalog circulation varies by brand and depends upon a number of factors, including the timing of the introduction of new products, marketing campaigns and promotions and inventory levels, among other factors.

Cornerstone also operates *Frontgate.com*, *BallardDesigns.com*, *GarnetHill.com*, *SmithandNoble.com*, *TheTerritoryAhead.com*, *TravelSmith.com* and *Improvements.com*, among other branded websites. These websites serve as additional, alternative storefronts for products featured in corresponding print catalogs, as well as provide customers with additional content to support and enhance their shopping experience. Additional content provided by these websites, which differs across the various websites, includes decorating tips and measuring and installation information, a feature that allows customers to browse the corresponding catalog on line and online design centers, gift registries and travel centers.

### **Supply**

HSN and Cornerstone purchase products by way of short- and long-term contracts and purchase orders, including products made to their respective specifications, as well as name brand merchandise and lines from third party vendors, typically under certain exclusive rights. The terms of these contracts and purchase orders vary depending upon the underlying products, the retail channel in which the products will ultimately be sold and the method of sale. In some cases, these contracts provide for the payment of additional amounts to vendors in the form of commissions, the amount of which is based upon the achievement of agreed upon sales targets, among other milestones. In addition, in the case of some purchases, HSNi businesses may have certain return, extended payment and/or termination rights. The mix and source of products generally depends upon a variety of factors, including price and availability, and HSNi manages inventory levels through periodic, ongoing analyses of anticipated and current sales. No single vendor accounted for more than 5% of HSNi's combined net sales in 2007, 2006 or 2005.

### **Marketing and Merchandising**

HSN continuously works to bring customers a broad assortment of new and existing products in a compelling, informative and entertaining format. For example, HSN frequently collaborates with experts in a variety of fields to present special events on the HSN television network featuring HSN products and relevant expert content. In most cases, these events are staged at HSN's television studios, and to a lesser extent, staged at venues associated with featured products. Online versions of certain special events are also featured on *HSN.com* for a limited time period following their broadcast on the HSN television network.

In an effort to promote its own differentiated brand, HSN seeks to provide its customers with unique products that can only be purchased through HSN. HSN frequently partners with leading personalities and brands to develop product lines exclusive to HSN and believes that these affiliations enhance the awareness of the HSN brand among consumers generally, as well as increase the extent to which HSN and/or products sold through HSN are featured in the media. In some cases, vendors have agreed to market their HSN affiliation to their existing customers (*i.e.*, by way of e-mail notifying customers when their products will be featured on the HSN television network).

HSN also engages in co-promotional partnerships with major media companies to secure print advertising in national fashion, style and/or lifestyle publications to market HSN to prospective customers in its target demographic, as well as search engine marketing and targeted offline advertising around the holidays and other key promotional periods.

The Cornerstone brands differentiate themselves by offering customers an assortment of innovative proprietary and branded apparel and home products. In many cases, Cornerstone, seeks to secure exclusive distribution rights for certain products. In addition, Cornerstone employs in-house designers or partners with leading manufacturers to develop exclusive new technology, such as wrinkle free fabrications. The various Cornerstone brands use their respective websites to promote special sales events and e-mail marketing to promote special offers, including cross-promotions for other Cornerstone brands. In addition, Cornerstone partners with third parties to offer promotional events such as sweepstakes and/or other advertising agreements. HSNi believes that these affiliations enhance the awareness of the Cornerstone brands among consumers as well as strengthen its various brands overall.

#### **Order Entry, Fulfillment and Customer Service**

HSNi provides customers with convenient options in connection with the purchase, payment and shipment of merchandise, some of which vary by brand, business or product. Products may be purchased online or through sales and service centers, and, in the case of Cornerstone only, by way of traditional catalog sales order form submissions. In addition, in the case of HSN only, products may be purchased by phone through an automated attendant system or, in limited markets, by remote control through pay television set-top boxes.

In addition to traditional payment options, such as credit and debit cards, payment options include private label credit cards and, in the case of HSN only, Flexpay, pursuant to which customers may pay for select merchandise in two to six interest-free, monthly credit or debit card payments. See "Risk Factors Relating to the Business of HSNi Following the Spin-Offs—Flexpay Program." HSN also offers its customers the convenience of ordering products under the Autoship program, pursuant to which customers may arrange to have products automatically shipped and billed at scheduled intervals. Standard and express shipping options are available and customers may generally return most merchandise for a full refund or exchange in accordance with applicable return policies (which vary by brand and business), subject to restocking fees for custom merchandise in the case of products sold through Cornerstone. Returns generally must be received within specified time periods after purchase, ranging from a minimum of thirty days to a maximum of one year, depending upon the applicable policy.

HSNi seeks to fulfill customer orders and process returns quickly and accurately from a network of fulfillment centers located, for HSN, in Tennessee, California and Virginia, and for Cornerstone, in Ohio. HSNi contracts with several third party carriers and other fulfillment partners to ensure the reliable and timely delivery of products to its customers and processing of returns.

Customers can also generally track the status of their orders through *HSN.com* and the various websites operated by Cornerstone, confirm information regarding shipping and, in some cases, confirm the availability of inventory and establish and manage personal accounts. Customers may communicate directly with customer service via e-mail or by telephone, with call center representatives available seven days a week.

#### **Competition**

HSNi brands and businesses operate in a highly competitive environment. These brands and businesses are in direct competition for consumers with traditional offline and online retailers (both television and internet retailers), ranging from large department stores to specialty shops, electronic retailers, direct marketing retailers, mail order and catalog companies, infomercial retailers, wholesale clubs and discount retailers. In addition, the HSN television network competes for access to customers and audience share with other conventional forms of entertainment and content. The price and availability of programming for pay television systems affect the availability of distribution for HSN television programming and the compensation that must be paid to pay television operators for related

carriage and competition for channel capacity and placement continues to increase. Principal competitive factors for HSNi brands and businesses include (i) brand recognition, (ii) value, quality and selection of merchandise, (iii) customer experience, including customer service and reliability of fulfillment and delivery services and (iv) convenience and accessibility of sales channels.

### **Employees**

As of December 31, 2007, HSNi employed approximately 5,500 full-time employees and approximately 1,100 part-time employees. No HSNi employees are represented by unions or other similar organizations and HSNi considers its relations with its employees to be good.

### **Properties**

HSNi owns its corporate headquarters in St. Petersburg, Florida, which consist of approximately 600,000 square feet of office space and include television studios, showrooms, broadcast facilities and administrative offices for HSN, as well as an HSN fulfillment center in Piney Flats, Tennessee. HSNi leases two additional HSN fulfillment centers in Fontana, California and Roanoke, Virginia pursuant to long-term leases that expire in 2011 and 2015, as well as other properties in various locations in the United States for executive and administrative offices and data centers. Cornerstone leases substantially all of its properties, consisting of administrative offices, retail outlets and fulfillment centers in West Chester, Ohio, as well as 26 retail stores and outlets in various locations throughout the United States, all pursuant to long-term leases with expiration date ranging from 2008 to 2018.

All leases with HSNi brands and businesses are at prevailing market rates. HSNi believes that the duration of each lease is adequate and does not anticipate any future problems renewing or obtaining suitable leases for its principal properties. HSNi believes that its principal properties, whether owned or leased, are currently adequate for the purposes for which they are used and are suitably maintained for these purposes. From time to time HSNi considers various alternatives related to its long term facilities needs. While HSNi management believes existing facilities are adequate to meet its short term needs, it may become necessary to lease or acquire additional or alternative space to accommodate future growth.

### **HSNi Legal Proceedings**

In the ordinary course of business, HSNi and its subsidiaries are parties to litigation involving property, personal injury, contract, intellectual property and other claims. The amounts that may be recovered in such matters may be subject to insurance coverage or, where the claim arises from a product sold by HSNi's businesses, indemnity from the manufacturer. HSNi does not believe that such ordinary course litigation will have a material effect on its business, financial condition or results of operations.

Rules of the Securities and Exchange Commission require the description of material pending legal proceedings, other than ordinary, routine litigation incident to the registrant's business, and advise that proceedings ordinarily need not be described if they primarily involve damage claims for amounts (exclusive of interest and costs) not exceeding 10% of the current assets of the registrant and its subsidiaries on a consolidated basis. In the judgment of management, none of the pending litigation matters which HSNi and its subsidiaries are defending involves or is likely to involve amounts of that magnitude.

## CAPITALIZATION

The following table presents HSNi's cash and cash equivalents and capitalization as of March 31, 2008 on an historical basis and on an unaudited pro forma basis for the separation and the financing. Pro forma for the separation and the financing includes the \$390 million in indebtedness that HSNi will hold at separation. In connection with the separation, HSNi will distribute the net proceeds of the financing to IAC and any cash on hand except for \$50 million which it will retain. The separation of HSNi and the related financing transactions are described in the notes to the Unaudited Pro Forma Condensed Combined Balance Sheet under the Unaudited Pro Forma Condensed Combined Financial Statements as if the separation and the related transactions and events had been consummated on March 31, 2008.

The assumptions used and pro forma adjustments derived from such assumptions are based on currently available information and HSNi believes such assumptions are reasonable under the circumstances.

This table should be read in conjunction with "Selected Historical Financial Data," "Transfers to IAC and Financing," "Description of Capital Stock of the Spinco's," "Management's Discussion and Analysis of Financial Condition and Results of Operations of HSNi," the combined financial statements of HSNi and the "Unaudited Pro Forma Condensed Combined Financial Statements" and accompanying notes included in this Prospectus.

The table below is not necessarily indicative of HSNi's cash and cash equivalents and capitalization had the separation and the related financing transactions been completed on March 31, 2008. The capitalization table below may not reflect the capitalization or financial condition which would have resulted had HSNi been operating as an independent, publicly-traded company at that date and is not necessarily indicative of HSNi's future capitalization or financial condition.

	As of March 31, 2008	
	Historical	Unaudited Pro Forma for the Separation and Financing
	(In millions)	
Cash and cash equivalents	\$ 8	\$ 50
Long-term debt:		
Revolving Credit Facility (1)	\$ —	\$ —
Term Loan Facility	—	150
Total secured debt	—	150
Senior Notes 11.25% due August 1, 2016	—	240
Total long-term debt	—	390
Invested equity	2,986	2,654
<b>Total capitalization</b>	<b>\$ 2,986</b>	<b>\$ 3,044</b>

(1) Revolving credit facility provides for borrowing of up to \$150 million.



## SELECTED HISTORICAL FINANCIAL DATA

The following table presents summary selected historical combined financial information for HSN, Inc. ("HSNi"). This data was derived, in part, from the historical combined financial statements of HSNi included elsewhere in this document and reflects the operations and financial position of HSNi at the dates and for the periods indicated. The information in this table should be read in conjunction with the combined financial statements and accompanying notes and other financial data pertaining to HSNi included herein. However, this financial information does not necessarily reflect what the historical financial position and results of operations of HSNi would have been had HSNi been a stand-alone company during the periods presented.

Year Ended December 31,					Three Months Ended March 31,	
2007	2006	2005 <sup>(1)</sup>	2004 (unaudited)	2003 (unaudited)	2008 (unaudited)	2007 (unaudited)

(In thousands)

### Statement of Operations Data:

Revenue	\$ 2,908,242	\$ 2,877,954	\$ 2,670,951	\$ 1,905,903	\$ 1,763,689	\$ 676,886	\$ 666,705
Operating income	169,791	213,196	195,152	127,748	104,223	15,078	30,147
Earnings from continuing operations	105,233	133,532	127,077	84,235	62,047	9,406	18,652
Net income	164,804	122,817	223,221	79,048	77,344	8,346	17,086

December 31,					March 31,	
2007	2006	2005 <sup>(1)</sup> (unaudited)	2004 (unaudited)	2003 (unaudited)	2008 (unaudited)	

(In thousands)

### Balance Sheet Data (end of period):

Working capital	\$ 147,185	\$ 340,592	\$ 320,991	\$ 241,871	\$ 189,194	\$ 200,235
Total assets	4,220,631	4,458,167	4,527,376	3,988,728	3,935,580	4,200,329
Invested equity	2,942,886	3,123,716	3,158,360	2,464,651	2,501,750	2,986,371

(1) Includes the results of Cornerstone Brands, Inc. since its acquisition on April 1, 2005.

**HSN, INC. AND SUBSIDIARIES**

**UNAUDITED PRO FORMA  
CONDENSED COMBINED FINANCIAL STATEMENTS**

The following Unaudited Pro Forma Condensed Combined Financial Statements of HSN, Inc. and subsidiaries ("HSNi") reflect adjustments to the historical combined financial statements of HSNi to give effect to the separation and related financing transactions described in the notes to the Unaudited Pro Forma Condensed Combined Financial Statements as of March 31, 2008 for the Unaudited Pro Forma Condensed Combined Balance Sheet and as of January 1, 2007 and January 1, 2008 for the Unaudited Pro Forma Condensed Combined Statement of Operations for the year ended December 31, 2007 and the three months ended March 31, 2008, respectively.

The assumptions used and pro forma adjustments derived from such assumptions are based on currently available information and HSNi believes such assumptions are reasonable under the circumstances.

The following Unaudited Pro Forma Condensed Combined Financial Statements should be read in conjunction with the historical combined financial statements of HSNi and "Management's Discussion and Analysis of Financial Condition and Results of Operations" of HSNi included in this Prospectus.

These Unaudited Pro Forma Condensed Combined Financial Statements are not necessarily indicative of HSNi's results of operations or financial condition had the separation and related transactions been completed on the dates assumed. Also, they may not reflect the results of operations or financial condition which would have resulted had HSNi been operating as an independent publicly traded company during such periods. In addition, they are not necessarily indicative of HSNi's future results of operations or financial condition.

**HSN, INC. AND SUBSIDIARIES**  
**UNAUDITED PRO FORMA**  
**CONDENSED COMBINED BALANCE SHEET**

**MARCH 31, 2008**

	Historical	Pro Forma Adjustments	Notes	Pro Forma
	(In thousands, except share data)			
<b>ASSETS</b>				
Cash and cash equivalents	\$ 8,017	\$ 374,000	(a)	\$ 50,000
		(332,017)	(b)	
Other current assets	574,788	—		574,788
<b>Total current assets</b>	<b>582,805</b>	<b>41,983</b>		<b>624,788</b>
Non-current assets	3,617,524	16,000	(a)	3,633,524
<b>TOTAL ASSETS</b>	<b>\$ 4,200,329</b>	<b>\$ 57,983</b>		<b>\$ 4,258,312</b>
<b>LIABILITIES AND INVESTED EQUITY</b>				
<b>LIABILITIES:</b>				
Current liabilities	\$ 382,570	\$ —		\$ 382,570
Long-term debt	—	390,000	(a)	390,000
Other long-term liabilities	831,388	—		831,388
<b>INVESTED EQUITY:</b>				
Common shares, \$0.01 par value; 300,000,000 authorized; 55,747,109 issued and outstanding on a pro forma basis	—	557	(b)	557
Additional paid-in capital	—	2,652,555	(b)	2,652,555
Invested capital	4,530,799	(4,530,799)	(b)	—
Receivables from IAC and subsidiaries	(1,545,670)	1,545,670	(b)	—
Accumulated other comprehensive income	1,242	—		1,242
<b>Total invested equity</b>	<b>2,986,371</b>	<b>(332,017)</b>		<b>2,654,354</b>
<b>TOTAL LIABILITIES AND INVESTED EQUITY</b>	<b>\$ 4,200,329</b>	<b>\$ 57,983</b>		<b>\$ 4,258,312</b>

The accompanying Notes to Unaudited Pro Forma Condensed Combined Financial Statements are an integral part of these statements.

**HSN, INC. AND SUBSIDIARIES**  
**UNAUDITED PRO FORMA**  
**CONDENSED COMBINED STATEMENT OF OPERATIONS**  
**MARCH 31, 2008**

	Historical	Pro Forma Adjustments	Notes	Pro Forma
	(In thousands, except per share data)			
Revenue	\$ 676,886	\$ —		\$ 676,886
Operating expenses	661,808	529	(c)	662,613
		276	(d)	
Operating income	15,078	(805)		14,273
Other income (expense):				
Interest income	15	—		15
Interest expense	—	(9,731)	(e)	(9,731)
Total other income (expense), net	15	(9,731)		(9,716)
Earnings from continuing operations before income taxes	15,093	(10,536)		4,557
Income tax provision	(5,687)	3,915	(f)	(1,772)
Earnings from continuing operations	\$ 9,406	\$ (6,621)		\$ 2,785
Pro forma earnings per share:(g)				
Basic earnings per share from continuing operations				\$ 0.05
Diluted earnings per share from continuing operations				\$ 0.05

The accompanying Notes to Unaudited Pro Forma Condensed Combined Financial Statements are an integral part of these statements.

**HSN, INC. AND SUBSIDIARIES**  
**UNAUDITED PRO FORMA**  
**CONDENSED COMBINED STATEMENT OF OPERATIONS**  
**YEAR ENDED DECEMBER 31, 2007**

	Historical	Pro Forma Adjustments	Notes	Pro Forma
(In thousands, except per share data)				
Revenue	\$ 2,908,242	\$ —		\$ 2,908,242
Operating expenses	2,738,451	1,633	(c)	2,741,187
		1,103	(d)	
Operating income	169,791	(2,736)		167,055
Other income (expense):				
Interest income	252	—		252
Interest expense	—	(38,925)	(e)	(38,925)
Other expense	(256)	—		(256)
Total other expense, net	(4)	(38,925)		(38,929)
Earnings from continuing operations before income taxes	169,787	(41,661)		128,126
Income tax provision	(64,554)	15,482	(f)	(49,072)
Earnings from continuing operations	\$ 105,233	\$ (26,179)		\$ 79,054
Pro forma earnings per share:(g)				
Basic earnings per share from continuing operations				\$ 1.38
Diluted earnings per share from continuing operations				\$ 1.32

The accompanying Notes to Unaudited Pro Forma Condensed Combined Financial Statements are an integral part of these statements.

**HSN, INC. AND SUBSIDIARIES**

**NOTES TO UNAUDITED PRO FORMA  
CONDENSED COMBINED FINANCIAL STATEMENTS**

- (a) In connection with the separation, HSNi raised \$390 million through a combination of privately issued debt securities (the "Notes") and a secured credit facility (the "Term Loan"). HSNi raised \$240 million through the Notes and \$150 million through the Term Loan, in addition, HSNi negotiated a \$150 million revolving credit facility (the "RCF"). The total estimated costs incurred in connection with the issuance of the Notes and borrowings under the Term Loan and establishing the RCF are \$16.0 million, including the original issue discount of \$1.6 million related to the Notes. The net proceeds are approximately \$374.0 million. The Notes have a maturity of eight years from the date of issuance and the Term Loan and RCF have five year terms. The assumed effective interest rate on the Notes is estimated to be 11.375% and LIBOR plus 2.75% for the Term Loan. The RCF is expected to have a fee of 0.50% for the unused portion.
- (b) To effect the terms of the separation as follows:
- (i) The transfer of approximately \$332.0 million in cash to IAC prior to HSNi's separation from IAC which was raised from the financing referred to in note (a) above, HSNi will retain \$50 million in cash upon the separation, inclusive of cash on hand;
  - (ii) The extinguishment of the receivable from IAC and subsidiaries; and
  - (iii) The issuance of 55.7 million shares to effect the transfer of the ownership of HSNi from IAC to IAC's shareholders based upon an expected exchange ratio of 1/5<sup>th</sup> a share of HSNi for each share of IAC and the number of IAC common shares outstanding as of March 31, 2008 before giving effect to the 1 for 2 reverse stock split of IAC shares that is expected to be effected in connection with the separation.
- (c) HSNi expects to incur additional costs related to being a stand-alone, public company. These costs have been estimated to be \$9.7 million on an annual basis. These costs relate to the following:
- additional personnel including accounting, tax, treasury, internal audit and legal personnel;
  - professional fees associated with audits, tax and other services;
  - increased insurance premiums;
  - increased health and welfare benefit costs;
  - costs associated with a board of directors;
  - increased franchise taxes, stock exchange listing fees, fees for preparing and distributing periodic filings with the Securities and Exchange Commission; and
  - other administrative costs and fees.

The total costs referred to above were compared to the corporate allocations from IAC for the three months ended March 31, 2008 and for the year ended December 31, 2007 in order to determine the incremental costs expected to be incurred for each period as follows:

	<b>Three Months Ended March 31, 2008</b>	<b>Year Ended December 31, 2007</b>
	<b>(In thousands)</b>	
Estimated stand-alone, public company costs	\$ 2,366	\$ 9,745
Less: corporate allocations	(1,837)	(8,112)
<b>Incremental costs of being a stand-alone, public company</b>	<b>\$ 529</b>	<b>\$ 1,633</b>

**HSN, INC. AND SUBSIDIARIES**

**NOTES TO UNAUDITED PRO FORMA  
CONDENSED COMBINED FINANCIAL STATEMENTS (Continued)**

The significant assumptions involved in arriving at these estimates include:

- the number of additional personnel required to operate as a public company and the compensation level with respect to each position;
- the level of additional assistance HSNi will require from professional service providers;
- the increase in insurance premiums as a stand-alone public company;
- the increase in health and welfare costs as a stand-alone entity; and
- the type and level of other costs expected to be incurred in connection with being a stand-alone public company.

This amount excludes the \$1.4 million of estimated one-time recruiting fees; professional fees for legal and tax services (e.g. initial benefit plan design); and other costs (e.g. initial stock exchange listing fees) expected to be incurred in initially establishing HSNi as a stand-alone public company. These costs are therefore not expected to recur.

The information presented above in note (c), with respect to the costs that HSNi expects to incur as a stand-alone, public company, is forward looking information within the meaning of "Forward-Looking Statements" as described on pages 20-21 of this Prospectus.

- (d) To reflect the additional compensation expense associated with equity-based awards that will be granted only upon consummation of the separation.

The awards related to the consummation of the separation are expected to be granted to the Chief Executive Officer of HSNi in the form of stock options. The issuance of these awards is contingent upon the consummation of the separation. The expense related to these awards is included as a pro forma adjustment because they will vest over four years and will therefore have an impact on the ongoing operations of HSNi. The amount of the award was determined using a Black Scholes calculation. The aggregate estimated value of the award is being amortized to expense on a straight-line basis over the four year vesting period of the awards. This does not reflect non-recurring compensation expense related to modifications of existing vested stock options and restricted stock units that will be made in connection with the separation described below.

Vested stock options and unvested stock options to purchase shares of IAC common stock will be modified as follows in connection with the separation:

Each option will convert into an option to purchase shares of common stock of all five companies, with adjustments to the number of shares subject to each option and the option exercise prices based on the relative values of IAC and the other four companies following the separation, with the intent to generally maintain equivalent value immediately pre and post transaction.

A calculation of the estimated value of the vested options immediately prior to the separation and immediately after the separation was performed using the Black Scholes model. The incremental charge of \$35 thousand resulted from the higher estimated value of the vested stock options after the separation. This higher value is due to higher estimated weighted average expected volatility of the stock price of the five companies after the separation than the expected volatility of IAC's stock price. The expense is a one-time charge because the options are fully vested and there is no future service requirement.

HSN, INC. AND SUBSIDIARIES

NOTES TO UNAUDITED PRO FORMA  
CONDENSED COMBINED FINANCIAL STATEMENTS (Continued)

The modification related to IAC issued restricted stock units ("RSUs") relates to the accelerated vesting, upon the consummation of the separation, of all RSUs granted prior to August 8, 2005 and all awards that were scheduled to vest prior to February 28, 2009. The estimated expense of \$6.5 million is the previously unrecognized expense associated with these awards. The expense is treated as non-recurring because after the separation no future service is required with respect to these awards.

There may be additional stock-based awards granted in connection with the separation but the amount of such awards, if any, has not yet been determined and no expense with respect thereto has been reflected herein.

- (e) This reflects the incremental interest expense related to the financing referred to in note (a) above. It includes interest expense at an effective rate of 11.375% on the Notes and LIBOR plus 2.75% on the Term Loan, LIBOR is assumed to be 2.80%, the aggregate assumed rate is therefore 5.55%. It also reflects expense at 0.50% on the RCF which is assumed to be unused. The interest expense calculation includes the amortization of debt issuance costs over the applicable term of each portion of the financing. The interest rates are based upon current assumptions, which with respect to the Notes is based upon the pricing of the Notes on July 16, 2008. A 25 basis point change in the interest rate would result in an increase or decrease to interest expense by \$0.6 million for the Notes and \$0.4 million for the Term Loan.
- (f) To reflect the tax effect of the pro forma adjustments at an assumed effective tax rate of 37.2% which represents a federal statutory rate of 35% and a state effective statutory rate of 2.2%.
- (g) Earnings per share and weighted average shares outstanding reflect the historical number of common shares used to calculate IAC's earnings per share, adjusted based on an expected exchange ratio of  $\frac{1}{5}$ <sup>th</sup> of a share of HSNi for each share of IAC. These amounts reflect the portion of outstanding equity-based awards that were included in IAC's dilutive earnings per share calculation. Pro forma earnings per share is calculated using the following:

	Three Months Ended March 31, 2008	Year Ended December 31, 2007
	(In thousands)	
Earnings from continuing operations	\$ 2,785	\$ 79,054
Basic shares outstanding—weighted average shares	55,753	57,137
Other dilutive securities including stock options, warrants and restricted stock and share units	1,496	2,729
Diluted shares outstanding—weighted average shares	57,249	59,866



## MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS OF HSNi

*The following discussion describes the financial condition and results of operations of HSN, Inc. ("HSNi") as though HSNi were a separate company as of the dates and for the periods presented and includes the businesses, assets and liabilities that will comprise HSNi following the spin-off.*

### **Spin-Off**

On November 5, 2007, IAC/InterActiveCorp ("IAC") announced that its Board of Directors approved a plan to separate IAC into five publicly traded companies, identifying HSNi as one of those five companies. We refer to the separation transaction herein as the "spin-off." In connection with the spin-off, HSNi was incorporated as a Delaware corporation in May 2008. HSNi currently does not have any material assets or liabilities, nor does it engage in any business or other activities and, other than in connection with the spin-off, will not acquire or incur any material assets or liabilities, nor will it engage in any business or other activities. Upon completion of the spin-off, HSNi will primarily consist of HSN and Cornerstone, the businesses that formerly comprised IAC's Retailing segment. HSN consists of the HSN television network and *HSN.com*, and Cornerstone includes the Cornerstone Brands portfolio of leading print catalogs and related websites, as well as a limited number of retail stores. HSNi will not include the equity investment in Jupiter Shop Channel, the investment in Arcandor AG and the related contingent value right. The businesses to be operated by HSNi following the spin-off are referred to herein as the "HSNi Businesses." HSNi will also include the entities described below in the Management Overview under the heading "Discontinued Operations."

### **Basis of Presentation**

The historical combined financial statements of HSNi and its subsidiaries and the disclosure set forth in this Management's Discussion and Analysis of Financial Condition and Results of Operations of HSNi reflect the contribution or other transfer to HSNi of all of the subsidiaries and assets and the assumption by HSNi of all of the liabilities relating to the HSNi Businesses in connection with the spin-off and the allocation to HSNi of certain IAC corporate expenses relating to the HSNi Businesses. Accordingly, the historical combined financial statements of HSNi reflect the historical financial position, results of operations and cash flows of the HSNi Businesses since their respective dates of acquisition by IAC, based on the historical consolidated financial statements and accounting records of IAC and using the historical results of operations and historical bases of the assets and liabilities of the HSNi Businesses with the exception of accounting for income taxes. For purposes of these financial statements, income taxes have been computed for HSNi on an as if stand-alone, separate tax return basis. These financial statements are prepared on a combined, rather than a consolidated, basis because they exclude certain investments and assets that were owned, either directly or indirectly, by legal entities that comprise the HSNi Businesses. The ownership of these investments and assets will be retained by IAC after the spin-off. These combined financial statements present IAC's and its subsidiaries net investment in the HSNi Businesses as invested equity in lieu of shareholders' equity. Intercompany transactions and accounts have been eliminated.

In the opinion of HSNi's management, the assumptions underlying the historical combined financial statements of HSNi are reasonable. However, this financial information does not necessarily reflect what the historical financial position, results of operations and cash flows of HSNi would have been had HSNi been a stand-alone company during the periods presented.

## MANAGEMENT'S OVERVIEW

HSNi markets and sells a wide range of third party and private label merchandise directly to consumers through (i) television home shopping programming broadcast on the HSN television network, (ii) catalogs, which consist primarily of the Cornerstone Brands portfolio of leading print catalogs and (iii) websites, which consist primarily of *HSN.com* and branded websites operated by Cornerstone Brands.

HSNi's television home shopping business and related internet commerce is referred to herein as "HSN" and all catalog operations and related internet commerce are collectively referred to herein as "Cornerstone."

### Sources of Revenue

HSN revenue includes merchandise sales originating from the live television broadcast of its programming 24 hours per day, seven days a week and the *HSN.com* website. HSN also sells merchandise through its "Autoship" program under which customers receive scheduled merchandise shipments according to a pre-determined calendar.

Cornerstone sells private label and third party merchandise. The primary brands within the Cornerstone business portfolio include Frontgate, Ballard Designs, Garnet Hill, Smith+Noble, The Territory Ahead, TravelSmith and Improvements.

### Products and Customers

HSNi sells a wide array of merchandise across its various channels of distribution. HSN merchandise categories primarily consist of jewelry, apparel & accessories, health & beauty and home & other. Cornerstone merchandise categories generally consist of home furnishings (including indoor/outdoor furniture, window treatments and other home-related goods) and apparel & accessories.

HSNi management believes that, combined with a multi-channel distribution strategy, merchandise diversification appeals to a broader segment of potential customers and is an important part of its overall business strategy. HSNi is continually developing new merchandise offerings from existing, potential and future suppliers, to supplement its existing product lines.

### Channels of Distribution; Marketing Costs

HSNi markets and offers products directly to customers through television programming, catalogs and branded websites, allowing customers to conveniently and directly transact with HSNi. HSN's live television programming is distributed primarily through cable and satellite distribution agreements. HSN reached approximately 90.6 million, 89.0 million and 89.0 million households as of December 31, 2007, 2006 and 2005, respectively, and believes its television network reaches approximately 80% of the available households in the United States. Catalog circulation was 400.8 million and 421.2 million in 2007 and 2006, respectively, and 336.1 million from its date of acquisition in April 2005. Catalog circulation fluctuates by brand, generally driven by seasonal considerations and customer demand trends. Although the majority of HSNi's marketing costs are incurred in the distribution of its television programming and catalog circulation, HSNi has and expects to continue to invest in online and offline advertising to build its brands and drive traffic to its websites.

In addition, some of the HSNi Businesses manage affiliate programs, pursuant to which they pay commissions and fees to third parties based on revenue earned. These distribution channels might also offer their own products, as well as those of other third parties, that compete with those made available and offered by the HSNi Businesses.

Sales and marketing expense as a percentage of revenue increased to approximately 20% in both 2007 and 2006 from approximately 19% in 2005.

#### **Access to Supply**

The HSNi Businesses purchase merchandise from a wide variety of third party vendors, manufacturers and other sources pursuant to short- and long-term contracts and purchase orders. In particular, the HSNi Businesses purchase a significant amount of merchandise from vendors and manufacturers abroad, particularly China. HSNi depends on the ability of vendors and manufacturers in the U.S. and abroad to produce and deliver goods that meet applicable quality standards. Cornerstone, in particular, is dependent, in significant part, upon independent, third party manufacturers to produce private label merchandise. In addition, HSNi provides certain supplier partners with important customer acquisition channels through its multiple brands and businesses.

#### **Discontinued Operations**

Discontinued operations consist of HSNi Businesses that engaged in television retailing and other forms of television-based commerce in Europe, primarily in Germany and the United Kingdom. Discontinued operations in Germany consist of EUVÍA, a group of companies that were primarily engaged in television game-based entertainment and commerce; and Home Shopping Europe GmbH & Co. KG, and its affiliated station HSE24 ("HSE"), a television and internet retailer. Discontinued operations in the United Kingdom consist of Quiz TV Limited a television game-based entertainment network and iBuy, a television and internet auction-formatted retailer.

During the second quarter of 2005, HSNi sold its 48.6% ownership interest in EUVÍA. During the second quarter of 2006, Quiz TV Limited ceased operations and during the fourth quarter of 2006, iBuy was classified as held for sale. Additionally, in the second quarter of 2007, both iBuy's assets and HSE were sold. Accordingly, discontinued operations in the accompanying combined statements of operations and cash flows include EUVÍA and HSE through June 2, 2005 and June 19, 2007, respectively. Quiz TV Limited and iBuy are presented as discontinued operations in the accompanying combined balance sheets and combined statements of operations and cash flows for all periods presented.

#### **2006/2007 and Recent Developments**

HSNi made a significant leadership change in April 2006 with the appointment of a new Chief Executive Officer. Executive and key personnel changes ensued, continuing into 2007. These changes were motivated by a desire to improve HSNi's operating performance and better position HSNi for future growth. These new executive leaders aligned their staffs, repositioned merchandise, evaluated supplier relationships and redefined business processes in support of new company strategies primarily focused on defining a clear and differentiated brand. As part of these strategies, HSNi re-launched the HSN.com website with, among other improvements, streaming video and enhanced navigation capabilities; improved its television programming through the use of new and upgraded sets, on-air talent and overall presentation; improved quality of service with the focus of driving retention and repeat customers; and the elimination of non-core businesses.

While these actions gave rise to increased operating expenses, primarily in the form of employee acquisition and transition costs, they were undertaken as discrete parts of HSNi's strategy to create an identity for itself as a lifestyle, editorial, programmed commerce network that provides great products with innovative and engaging presentation.

In April 2007, largely as a result of increasing cable and satellite distribution costs, HSN ceased operating America's Store, a home shopping network that reached an average of 14.3 million and

15.0 million households during 2006 and 2005, respectively. America's Store sales were \$15.9 million, \$88.6 million and \$86.7 million in 2007, 2006, and 2005, respectively.

As a part of executing its strategies, HSNi disposed of certain merchandise lines and discontinued vendor relationships not aligned with its evolving brand identity. In addition, while seeking merchandise that aligned with its brand identity, it acquired certain merchandise that did not perform to expectations with its customers, resulting in excess on-hand inventory. Much of this excess merchandise inventory was discounted and sold at clearance-level prices on TV, over the internet, through promotional catalogs, in outlet stores, or liquidated through wholesalers.

With the changes noted above and its more diversified product assortment, HSN is expected to achieve year over year sales and profitability growth for the first six months of 2008 despite an unstable retail environment. HSN will continue to refine its product assortment in support of its improved brand identity.

In connection with the preparation of its combined financial statements as of and for the six months ended June 30, 2008, HSNi performed a test of the indefinite-lived intangible assets and goodwill of its reporting units, HSN and Cornerstone, during June 2008. HSNi prepared discounted cash flow analyses and reviewed the resulting valuations in the context of implied valuations based upon market multiples of EBITDA and the expected trading range of value of HSNi after the separation. Based upon these analyses, HSNi concluded that the goodwill of its HSN reporting unit is not impaired.

However, the indefinite-lived intangible assets and goodwill of Cornerstone are impaired. This impairment is due, in part, to the significant deterioration in the macro economic environment for retailers, particularly in the housewares and apparel categories (which are Cornerstone's primary markets), and the negative impact of these markets on Cornerstone's performance and the related reduction in market valuations for retailers. The effect of these market conditions has been exacerbated by execution issues and turnover of management of certain catalogs within Cornerstone.

The impairment charge is \$300 million. Cornerstone incurred an operating loss of \$309.4 million for the first six months of 2008, inclusive of the \$300 million impairment charge, compared to operating income of \$13.7 million in the comparable year ago period.

#### *Results of Operations for the Years Ended December 31, 2007, 2006 and 2005*

##### *Revenue*

	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
HSN	\$ 1,892,582	0%	\$ 1,884,650	0%	\$ 1,887,661
Cornerstone	1,016,091	2%	994,621	27%	783,743
Inter-segment elimination	(431)	67%	(1,317)	(191)%	(453)
Total revenue	\$ 2,908,242	1%	\$ 2,877,954	8%	\$ 2,670,951

Revenue primarily relates to the sale of merchandise and is reduced by incentive discounts and sales returns. In accordance with Staff Accounting Bulletin 104, revenue is recorded when delivery to the customer has occurred. Delivery is considered to have occurred when the customer takes title and assumes the risks and rewards of ownership, which is generally on the date of shipment. HSNi's sales policy allows customers to return merchandise for a full refund or exchange, subject in some cases to restocking fees and exceptions to certain merchandise.

Revenue in 2007 increased \$30.3 million from 2006 primarily due to slight growth from Cornerstone, while revenue from HSN remained relatively flat. Online sales continued to grow at a double digit rate in 2007. Revenue from HSN grew 4%, excluding America's Store which ceased operations on April 3, 2007. HSN's revenue reflects a 2% increase in average price point, partially offset by a 1% decrease in units shipped. Average price point was \$60.09 in 2007, up from \$58.70 in 2006. Overall units shipped in 2007 were negatively impacted by reduced revenue associated with the shutdown of America's Store. Revenue from America's Store in 2007 was approximately \$15.9 million compared to \$88.6 million in 2006.

Revenue in 2006 increased \$207.0 million from 2005 principally reflecting the inclusion of Cornerstone Brands since its acquisition in April 2005 and subsequent growth of Cornerstone in 2006. Revenue benefited from a 7% increase in units shipped, a 2% increase in average price point, partially offset by a 110 basis point increase in return rates. Average price point and units shipped were \$58.70 and 54.3 million, respectively, in 2006, up from \$57.72 and 50.7 million, respectively, in 2005.

### **HSN**

Revenue from HSN in 2007 increased \$7.9 million. Excluding America's Store, revenue reflect a 2% increase in average price point and a 3% increase in units shipped, partially offset by a 70 basis point increase in average return rates. The increase in average price point in 2007 was primarily due to a shift in product mix to the electronics/housewares category (included in home & other) from the health & beauty category. Electronics/housewares merchandise generally carry a higher average price point than health & beauty merchandise offerings. HSN manages its product mix to provide a balance between satisfying existing customer demand, generating interest from potential viewers and customers, providing new merchandise or values to its viewership and maximizing airtime and internet efficiency. Return rates at HSN in 2007 were 19.6%, up from 18.7% in 2006, primarily driven by overall higher return rates in several product categories.

Product mix from HSN is provided in the table below:

	Years Ended December 31,		
	2007	2006	2005
Jewelry	18%	18%	18%
Apparel & accessories	13%	13%	12%
Health & beauty	19%	20%	20%
Home & other	50%	49%	50%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Revenue from HSN in 2006 decreased \$3.0 million from 2005, primarily due to a 3% increase in units shipped, offset by a 160 basis point increase in return rates and a 2% decrease in average price point. Overall, HSN experienced a decrease in TV sales of products in the electronic/housewares and health & beauty categories, which contributed to flat revenue, despite double digit online sales growth. In addition, revenue from HSN was also adversely impacted by higher overall return rates in several product categories, as well as product mix shifts into categories with generally higher average return rates. Return rates at HSN in 2006 were 18.7%, up from 17.1% in 2005.

## Cornerstone

Revenue from Cornerstone in 2007 increased \$21.5 million from 2006 primarily due to a 5% increase in average price point, partially offset by a 2% decrease in units shipped resulting principally from a planned decrease in circulation at certain catalog brands.

Revenue from Cornerstone in 2006 increased \$210.9 million from 2005 reflecting the inclusion of Cornerstone Brands since its acquisition in April 2005 and subsequent growth of Cornerstone in 2006. On a pro forma basis, assuming Cornerstone Brands had been acquired on January 1, 2005, revenue growth in 2006 would have been \$29.3 million, or 3%, benefiting primarily from increased units shipped, due, in part, to higher catalog circulation and increased average price point.

### Cost of Sales

	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
HSN	\$ 1,252,098	3%	\$ 1,218,606	1%	\$ 1,208,364
Cornerstone	568,381	4%	547,914	25%	439,946
Inter-segment elimination	(431)	67%	(1,317)	(191)%	(453)
Cost of sales	\$ 1,820,048	3%	\$ 1,765,203	7%	\$ 1,647,857
As a percentage of total revenue	63%	125 bp	61%	(36) bp	62%
Gross margins	37%	(125) bp	39%	36 bp	38%

bp

bp = basis point

	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
Cost of sales—HSN	\$1,252,098	3%	\$1,218,606	1%	\$1,208,364
As a percentage of HSN revenue	66%	150 bp	65%	65 bp	64%
HSN gross margins	34%	(150) bp	35%	(65) bp	36%
Cost of sales—Cornerstone	\$568,381	4%	\$547,914	25%	\$439,946
As a percentage of Cornerstone revenue	56%	85 bp	55%	(105) bp	56%
Cornerstone gross margins	44%	(85) bp	45%	105 bp	44%

Cost of sales consists primarily of the cost of products sold, as well as shipping and handling costs and compensation and other employee-related costs (including stock-based compensation) for personnel engaged in warehouse functions. Cost of products sold includes merchandise cost, inbound freight and duties and in the case of HSN, certain allocable general and administrative costs, including certain warehouse costs.

Cost of sales in 2007 increased \$54.8 million from 2006, primarily due to an increase of \$44.2 million in the cost of products sold, \$4.4 million of which relates to an increase in inventory reserves, a shift in mix to lower gross margin products, an increase of \$8.2 million in shipping and handling costs and the effect of merchandise liquidation and markdowns, all of which contributed to a decrease in overall gross margins of 125 basis points to 37.4%. Higher return rates negatively impact both revenue and gross margins as higher returns result in higher warehouse processing costs and higher inventory markdowns for goods that are not resalable at full retail price. The impact of the increase in overall return rates on gross margins is \$10.8 million in 2007.

Cost of sales in 2006 increased \$117.3 million from 2005, primarily due to an increase of \$74.2 million in cost of products sold and \$38.8 million in shipping and handling costs. Included in these increases is the impact of the acquisition of Cornerstone Brands on April 1, 2005. On a pro forma basis, assuming Cornerstone Brands had been acquired on January 1, 2005, cost of sales in 2006

would have increased \$14.9 million, or 1%. Overall gross margins increased 36 basis points to 38.7% driven primarily by a shift in sales mix to higher full price items, and lower fulfillment costs as a percentage of merchandise cost at Cornerstone. Although HSNi benefited from higher gross margins at Cornerstone, gross margins at HSN declined 60 basis points due to higher return rates and increased shipping and handling costs. Gross margins in 2005 were impacted by a \$5.8 million favorable adjustment to certain accrued liabilities. The impact of the increase in overall return rates on gross margins was \$16.4 million in 2006.

### Selling and marketing expense

	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
HSN	\$ 272,896	5%	\$ 260,794	4%	\$ 249,912
Cornerstone	323,015	(0)%	324,203	29%	250,965
<b>Selling and marketing expense</b>	<b>\$ 595,911</b>	<b>2%</b>	<b>\$ 584,997</b>	<b>17%</b>	<b>\$ 500,877</b>
As a percentage of total revenue	20%	16 bp	20%	157 bp	19%

	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
Selling and marketing expense—HSN	\$272,896	5%	\$260,794	4%	\$249,912
As a percentage of HSN revenue	14%	58 bp	14%	60 bp	13%
Selling and marketing expense—Cornerstone	\$323,015	(0)%	\$324,203	29%	\$250,965
As a percentage of Cornerstone revenue	32%	(81) bp	33%	57 bp	32%

Selling and marketing expense consists primarily of advertising and promotional expenditures, compensation and other employee-related costs (including stock-based compensation) for personnel engaged in customer service and sales functions and on-air distribution costs. Advertising and promotional expenditures primarily include catalog production and distribution costs ("catalog circulation costs") and online marketing, including fees paid to search engines and third party distribution partners.

Selling and marketing expense in 2007 increased \$10.9 million from 2006, primarily due to increases of \$6.7 million in on-air distribution costs at HSN, \$6.2 million in compensation and other employee-related costs and \$4.2 million in advertising and promotional expenditures, which is net of a decrease of \$6.6 million in catalog circulation costs. The increase in on-air distribution costs is primarily related to newly executed contracts with cable and satellite distribution partners. Compensation and other employee-related costs increased in the current year period due in part to a 15% increase in headcount as well as increased management transition costs.

Selling and marketing expense in 2006 increased \$84.1 million from 2005, primarily due to the full year inclusion of Cornerstone Brands and subsequent growth of Cornerstone in 2006, as well as an increase of \$9.4 million in on-air distribution costs at HSN. Excluding the impact of Cornerstone, selling and marketing expense increased \$10.9 million from 2005 primarily driven by a \$9.4 million increase in on-air distribution costs and an increase in compensation and other employee-related costs.

### General and administrative expense

	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
HSN	\$ 141,379	7%	\$ 131,538	3%	\$ 127,417
Cornerstone	70,576	29%	54,723	25%	43,763
<b>General and administrative expense</b>	<b>\$ 211,955</b>	<b>14%</b>	<b>\$ 186,261</b>	<b>9%</b>	<b>\$ 171,180</b>
As a percentage of total revenue	7%	82 bp	6%	6 bp	6%

Years Ended December 31,

	2007	% Change	2006	% Change	2005
(Dollars in thousands)					
General and administrative expense—HSN	\$141,379	7%	\$131,538	3%	\$127,417
As a percentage of HSN revenue	7%	49 bp	7%	23 bp	7%
General and administrative expense—Cornerstone	\$70,576	29%	\$54,723	25%	\$43,763
As a percentage of Cornerstone revenue	7%	144 bp	6%	(8) bp	6%

General and administrative expense consists primarily of compensation and other employee-related costs (including stock-based compensation) for personnel engaged in finance, legal, tax, human resources, information technology and executive management functions, facilities costs and fees for professional services.

General and administrative expense in 2007 increased \$25.7 million from 2006, primarily due to higher compensation and other employee-related costs of \$14.3 million and increases of \$3.9 million in bad debt expense and \$3.4 million in professional fees. Between 2006 and 2007, HSNi invested in leadership by increasing compensation and expanding its management team. General and administrative expense was further impacted by increases in compensation and other employee-related costs associated with retail store expansion and internet development at Cornerstone. The increase in bad debt expense is primarily due to increased Flexpay sales. Flexpay, which is offered exclusively through HSN, allows customers to pay for merchandise in interest free monthly payments over a 2-6 month period. Flexpay sales were 54% and 48% of HSN's net merchandise sales for 2007 and 2006, respectively. HSNi expects to incur increased costs related to the additional financial and legal requirements associated with being a separate public company, as well as increased non-cash compensation associated with the modification of existing stock-based compensation awards in connection with the spin-off and the grant of new awards post spin-off.

General and administrative expense in 2006 increased \$15.1 million from 2005, primarily due to the acquisition of Cornerstone Brands on April 1, 2005 and an increase in compensation and other employee-related costs principally related to management transition.

Effective January 1, 2006, HSNi adopted Statement of Financial Accounting Standards ("SFAS") No. 123 (revised 2004), "Share-Based Payment" ("SFAS 123R"), using the modified prospective transition method. There was no impact to the amount of stock-based compensation recorded in the combined statements of operations for the years ended December 31, 2006 and 2005 as a result of adopting SFAS 123R. HSNi has been recognizing expense for all stock-based grants since August 9, 2005, in accordance with SFAS No. 123, "Accounting for Stock-Based Compensation" ("SFAS 123") due to the modification resulting from the Expedia spin-off. The majority of stock-based compensation expense is reflected in general and administrative expense. As of December 31, 2007, there was approximately \$23.0 million of unrecognized compensation cost, net of estimated forfeitures, related to all equity-based awards, which is expected to be recognized over a weighted average period of approximately 2.7 years.

**Production and programming expense**

	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
(Dollars in thousands)					
HSN	\$ 58,913	5%	\$ 56,224	3%	\$ 54,849
Cornerstone	138	(76)%	576	(11)%	645
Production and programming expense	\$ 59,051	4%	\$ 56,800	2%	\$ 55,494
As a percentage of total revenue	2%	6 bp	2%	(10) bp	2%



Production and programming expense consists primarily of compensation and other employee-related costs (including stock-based compensation) for personnel engaged in production and programming at HSN.

Production and programming expense in 2007 increased \$2.3 million from 2006, primarily due to an increase of \$2.9 million in compensation and other employee-related costs and a charge of \$2.0 million in connection with the termination of a contract for a satellite no longer in use. These increases were partially offset by lower broadcast fees related to the shutdown of America's Store in April 2007.

Production and programming expense in 2006 increased \$1.3 million from 2005, primarily due to increased expenses related to compensation and other employee-related costs.

### Depreciation

	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
HSN	\$ 25,404	(13)%	\$ 29,082	(17)%	\$ 35,216
Cornerstone	8,959	9%	8,191	43%	5,731
<b>Depreciation</b>	<b>\$ 34,363</b>	<b>(8)%</b>	<b>\$ 37,273</b>	<b>(9)%</b>	<b>\$ 40,947</b>
As a percentage of total revenue	1%	(11) bp	1%	(24) bp	2%

	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
Depreciation—HSN	\$25,404	(13)%	\$29,082	(17)%	\$35,216
As a percentage of HSN revenue	1%	(20) bp	2%	(32) bp	2%
Depreciation—Cornerstone	\$8,959	9%	\$8,191	43%	\$5,731
As a percentage of Cornerstone revenue	1%	6 bp	1%	9 bp	1%

Depreciation in 2007 and 2006 decreased \$2.9 million and \$3.7 million, respectively, primarily due to certain fixed assets becoming fully depreciated at HSNi, partially offset by the incremental depreciation associated with capital expenditures made throughout 2006 and 2007. The increase in capital expenditures relates primarily to Cornerstone's distribution, call center and retail store expansion, and internet related initiatives.

### Operating Income Before Amortization

Operating Income Before Amortization is a Non-GAAP measure and is defined in "HSNi's Principles of Financial Reporting."

	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
HSN	\$ 148,303	(23)%	\$ 193,139	(12)%	\$ 220,013
Cornerstone	50,771	(23)%	66,027	37%	48,308
<b>Operating Income Before Amortization</b>	<b>\$ 199,074</b>	<b>(23)%</b>	<b>\$ 259,166</b>	<b>(3)%</b>	<b>\$ 268,321</b>
As a percentage of total revenue	7%	(216) bp	9%	(104) bp	10%

	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
Operating Income Before Amortization—HSN	\$148,303	(23)%	\$193,139	(12)%	\$220,013
As a percentage of HSN revenue	8%	(241) bp	10%	(141) bp	12%
Operating Income Before Amortization—Cornerstone	\$50,771	(23)%	\$66,027	37%	\$48,308
As a percentage of Cornerstone revenue	5%	(164) bp	7%	47 bp	6%

Operating Income Before Amortization in 2007 decreased \$60.1 million from 2006, primarily due to a 125 basis point decrease in gross margins, increased general and administrative expense of \$25.7 million and increased selling and marketing expense of \$10.9 million.

Operating Income Before Amortization in 2006 decreased \$9.2 million from 2005, primarily due to higher operating costs associated with increased catalog circulation and a \$9.4 million increase in on-air distribution costs at HSN, partially offset by higher revenue noted above and a 36 basis point increase in gross margins.

#### Operating income

	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
HSN	\$ 134,866	(18)%	\$ 163,904	3%	\$ 159,794
Cornerstone	34,925	(29)%	49,292	39%	35,358
Operating income	\$ 169,791	(20)%	\$ 213,196	9%	\$ 195,152
As a percentage of total revenue	6%	(157) bp	7%	10 bp	7%

	Years Ended December 31,				
	2007	% Change	2006	% Change	2005
	(Dollars in thousands)				
Operating Income—HSN	\$134,866	(18)%	\$163,904	3%	\$159,794
As a percentage of HSN revenue	7%	(157) bp	9%	23 bp	8%
Operating Income—Cornerstone	\$34,925	(29)%	\$49,292	39%	\$35,358
As a percentage of Cornerstone revenue	3%	(152) bp	5%	44 bp	5%

Operating income in 2007 decreased \$43.4 million from 2006, primarily due to the decrease in Operating Income Before Amortization described above, a \$4.4 million increase in amortization of non-cash marketing and a \$0.4 million increase in non-cash compensation expense, partially offset by a \$21.5 million decrease in amortization of intangibles resulting from certain intangible assets being fully amortized in 2006 and 2007. The amortization of non-cash marketing referred to in this report consists of non-cash marketing and advertising secured by IAC from Universal Television as part of the IAC transaction pursuant to which Vivendi Universal Entertainment, LLLP ("VUE") was created, and the subsequent transaction by which IAC sold its partnership interests in VUE.

Operating income in 2006 increased \$18.0 million from 2005, despite the decrease in Operating Income Before Amortization described above primarily due to a \$25.2 million decrease in the amortization of intangibles resulting from certain intangible assets being fully amortized in 2006 and a \$2.0 million decrease in non-cash compensation expense.

#### Income tax provision

In 2007 and 2006, HSNi recorded an income tax provision for continuing operations of \$64.6 million and \$79.2 million, respectively, which represents effective tax rates of 38% and 37%,

respectively. These tax rates are higher than the federal statutory rate of 35% due principally to state and local income taxes. In 2005, HSNi recorded a tax provision for continuing operations of \$66.3 million which represents an effective tax rate of 34%. The 2005 tax rate is lower than the federal statutory rate of 35% due principally to a decrease in net deferred tax liabilities due to a change in HSNi's state effective tax rate partially offset by state and local income taxes.

HSNi adopted the provisions of FASB Interpretation No. 48, "Accounting for Uncertainty in Income Taxes—an interpretation of FASB Statement No. 109" effective January 1, 2007. The cumulative effect of the adoption resulted in a decrease of \$0.2 million to retained earnings. As of January 1, 2007 and December 31, 2007, HSNi had unrecognized tax benefits of approximately \$5.2 million and \$11.7 million, respectively, which included accrued interest of \$0.9 million and \$2.8 million, respectively.

By virtue of previously filed separate company and consolidated tax returns with IAC, HSNi is routinely under audit by federal, state, local and foreign authorities in the area of income tax. These audits include questioning the timing and the amount of deductions and the allocation of income among various tax jurisdictions. Income taxes payable include amounts considered sufficient to pay assessments that may result from examination of prior year returns; however, the amount paid upon resolution of issues raised may differ from the amount provided. Differences between the reserves for tax contingencies and the amounts owed by HSNi are recorded in the period they become known.

The Internal Revenue Service ("IRS") is currently examining the IAC consolidated tax returns for the years ended December 31, 2001 through 2003, which includes the operations of HSN. The statute of limitations for these years has been extended to December 31, 2008. Tax filings in various state, local and foreign jurisdictions are currently under examinations, the most significant of which are Florida, New York state and New York City, for various tax years after December 31, 2001. These examinations are expected to be completed by late 2008. HSNi believes that it is reasonably possible that its unrecognized tax benefits could decrease by approximately \$2.3 million within twelve months of the current reporting date due to the reversal of deductible temporary differences which will result in a corresponding increase in net deferred tax liabilities. An estimate of other changes in unrecognized benefits cannot be made, but are not expected to be significant.

Under the terms of the tax sharing agreement, which will be executed in connection with the spin-off, IAC will generally retain the liability related to federal and state returns filed on a consolidated or unitary basis for all periods prior to the spin-off.

#### ***Discontinued operations***

Discontinued operations in the accompanying combined statements of operations include EUVÍA and HSE through June 2, 2005 and June 19, 2007, respectively. Quiz TV Limited and iBuy are presented as discontinued operations in the accompanying combined financial statements for all periods presented. Income (loss) from these discontinued operations in 2007, 2006 and 2005 was income of \$29.0 million, losses of \$10.7 million and income of \$22.8 million, respectively, net of tax. Income from discontinued operations, net of tax, in 2007 primarily includes the income of HSE. Losses from discontinued operations, net of tax, in 2006 primarily includes the losses of iBuy and Quiz TV Limited, partially offset by the income of HSE. Income from discontinued operations, net of tax, in 2005 primarily includes the income of HSE and EUVÍA.

Additionally, HSNi recognized after-tax gains in 2007 and 2005 of \$30.6 million and \$73.3 million on the sales of HSE and EUVÍA, respectively.

## FINANCIAL POSITION, LIQUIDITY AND CAPITAL RESOURCES

As of December 31, 2007, HSNi had \$6.2 million of cash and cash equivalents.

Net cash provided by operating activities attributable to continuing operations was \$137.6 million and \$167.7 million in 2007 and 2006, respectively. The decrease of \$30.1 million in net cash provided by operating activities reflects a decrease in income from continuing operations of \$28.3 million combined with a decrease in depreciation and amortization of intangibles of \$24.5 million and a decrease of cable and satellite distribution fees and amortization of \$7.8 million. The decrease in depreciation and amortization of intangibles reflects a higher percentage of HSNi's depreciable/amortizable assets reaching the end of their estimated useful lives in 2007 as compared to the prior year, while the reduction in cable and satellite distribution fees reflects the trend of HSNi negotiating shorter-term agreements with its cable and satellite distribution partners. Also affecting cash provided by operating activities in 2007 were increases in accounts receivable, primarily due to an increase in Flexpay sales, inventories and accounts payable and other current liabilities. During 2007, inventory increased by \$3.5 million to \$317.4 million from \$313.9 million at December 31, 2006, primarily due to increased merchandise purchases as well as lower than anticipated sales at Cornerstone.

Net cash used in investing activities attributable to continuing operations in 2007 of \$140.2 million resulted primarily from cash transfers of \$91.6 million to IAC and capital expenditures of \$48.7 million. The cash transfers to IAC relate primarily to the transfer of HSNi's excess cash to IAC in connection with IAC's centrally managed U.S. treasury function. Net cash used in investing activities attributable to continuing operations in 2006 of \$224.4 million resulted primarily from cash transfers of \$188.3 million to IAC and capital expenditures of \$36.0 million.

Net cash provided by financing activities attributable to continuing operations in 2007 and 2006 of \$2.4 million and \$2.3 million, respectively, was primarily due to excess tax benefits from stock-based awards.

Net cash used in discontinued operations in 2007 and 2006 of \$48.5 million and \$38.2 million, respectively, relates primarily to the operations of HSE and iBuy. HSNi does not expect future cash flows associated with existing discontinued operations to be material.

**CONTRACTUAL OBLIGATIONS AND COMMERCIAL COMMITMENTS**

Contractual Obligations	Payments Due by Period				
	Total	Less Than 1 Year	1-3 Years	3-5 Years	More Than 5 Years
	(In thousands)				
Purchase obligations(a)	\$ 135,023	\$ 43,871	\$ 80,698	\$ 10,454	\$ —
Operating leases	131,171	29,832	48,704	32,520	20,115
<b>Total contractual cash obligations</b>	<b>\$ 266,194</b>	<b>\$ 73,703</b>	<b>\$ 129,402</b>	<b>\$ 42,974</b>	<b>\$ 20,115</b>

(a) The purchase obligations primarily relate to cable contracts and include obligations for future cable distribution and commission guarantees.

Other Commercial Commitments*	Amount of Commitment Expiration Per Period				
	Total Amounts Committed	Less Than 1 Year	1-3 Years	3-5 Years	More Than 5 Years
	(In thousands)				
Letters of credit and surety bonds	\$ 25,390	\$ 25,078	\$ —	\$ 312	\$ —

\* The letters of credit ("LOCs") primarily consist of trade LOCs, which are used for inventory purchases. Trade LOCs are guarantees of payment based upon the delivery of goods. The surety bonds primarily consist of customs bonds, which relate to the import of merchandise into the United States.

**Off-Balance Sheet Arrangements**

Other than the items described above, HSNi does not have any off-balance sheet arrangements as of December 31, 2007.

*Results of Operations for the Three Months Ended March 31, 2008 Compared to the Three Months Ended March 31, 2007*

**Revenue**

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
HSN	\$ 478,973	5%	\$ 454,053
Cornerstone	197,954	(7)%	212,775
Inter-segment elimination	(41)	67%	(123)
Total revenue	\$ 676,886	2%	\$ 666,705

Revenue primarily relates to the sale of merchandise and is reduced by incentive discounts and sales returns. In accordance with Staff Accounting Bulletin 104, revenue is recorded when delivery to the customer has occurred. Delivery is considered to have occurred when the customer takes title and assumes the risks and rewards of ownership, which is generally on the date of shipment. HSNi's sales policy allows customers to return merchandise for a full refund or exchange, subject in some cases to restocking fees and exceptions to certain merchandise.

Revenue in 2008 increased \$10.2 million from 2007 primarily due to 9% growth at HSN, excluding America's Store which ceased operations on April 3, 2007, partially offset by a decline of 7% at Cornerstone. Revenue from America's Store in 2007 was approximately \$15.9 million. Online sales continued to grow at a double digit rate in the first quarter of 2008. HSNi's revenue reflects a 3% increase in average price point on comparable units shipped. Average price point is \$61.20 in 2008, up from \$59.49 in 2007.

**HSN**

Revenue from HSN in 2008 increased \$24.9 million, reflecting a 5% increase in average price point on comparable units shipped, partially offset by a 90 basis point increase in average return rates. The increase in average price point in 2008 is primarily due to a shift in product mix from the health & beauty category to the home division (including electronics and cookware). Electronics merchandise generally carries a higher average price point than health & beauty merchandise offerings. During the first quarter of 2008, HSN continued to improve sales efficiency and increased the number and spend of active customers. Return rates at HSN in 2008 were 20.0%, up from 19.1% in 2007, primarily driven by overall higher return rates in several product categories.

Product mix from HSN is provided in the table below:

	Three Months Ended March 31,	
	2008	2007
Jewelry	16%	17%
Apparel & accessories	13%	12%
Health & beauty	18%	21%
Home & other	53%	50%
Total	100%	100%

**Cornerstone**

Revenue from Cornerstone in 2008 decreased \$14.8 million from 2007 primarily due to a 4% decrease in units shipped and a 2% decrease in average price point. Cornerstone, which operates in the

home and apparel merchandise categories, was negatively affected by lower consumer demand and aggressive competitive action in this difficult retail environment. Revenue was also negatively impacted by a 15% decrease in catalog circulation.

### Cost of sales

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
HSN	\$ 324,092	8%	\$ 300,988
Cornerstone	117,351	(0)%	117,841
Inter-segment elimination	(41)	67%	(123)
Cost of sales	\$ 441,402	5%	\$ 418,706
As a percentage of total revenue	65%	241 bp	63%
Gross margins	35%	(241) bp	37%

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
Cost of sales—HSN	\$ 324,092	8%	\$ 300,988
As a percentage of HSN revenue	68%	137 bp	66%
HSN gross margins	32%	(137) bp	34%
Cost of sales—Cornerstone	\$ 117,351	(0)%	\$ 117,841
As a percentage of Cornerstone revenue	59%	390 bp	55%
Cornerstone gross margins	41%	(390) bp	45%

Cost of sales consists primarily of the cost of products sold, shipping and handling costs and compensation and other employee-related costs (including stock-based compensation) for personnel engaged in warehouse functions. Cost of products sold includes merchandise cost, inbound freight and duties and in the case of HSN, certain allocable general and administrative costs, including certain warehouse costs.

Cost of sales in 2008 increased \$22.7 million from 2007, primarily due to an increase of \$18.9 million in the cost of products sold and an increase of \$3.1 million in shipping and handling costs. The increase in cost of sales as a percentage of revenue was due to a decrease in gross margins of 390 basis points and 137 basis points at Cornerstone and HSN, respectively. The decrease in gross margins at Cornerstone was principally due to an aggressive increase in promotional pricing and clearance activity, a higher return rate and an increase in fulfillment costs. The decrease in gross margins at HSN was due to a shift in product mix to lower gross margin products, primarily electronics and cookware, the effect of merchandise clearance sales and higher shipping and handling costs, partially offset by lower inventory reserves. Higher return rates negatively impact gross margins as higher returns result in higher warehouse processing costs and higher inventory markdowns for goods that are not resalable at full retail price. The year over year impact of the increase in overall return rates on gross margins is \$2.6 million.

**Selling and marketing expense**

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
HSN	\$ 67,698	(1)%	\$ 68,511
Cornerstone	69,052	2%	67,942
<b>Selling and marketing expense</b>	<b>\$ 136,750</b>	<b>0%</b>	<b>\$ 136,453</b>
As a percentage of total revenue	20%	(26) bp	20%

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
Selling and marketing expense—HSN	\$ 67,698	(1)%	\$ 68,511
As a percentage of HSN revenue	14%	(95) bp	15%
Selling and marketing expense—Cornerstone	\$ 69,052	2%	\$ 67,942
As a percentage of Cornerstone revenue	35%	295 bp	32%

Selling and marketing expense consists primarily of advertising and promotional expenditures, compensation and other employee-related costs (including stock-based compensation) for personnel engaged in customer service and sales functions and on-air distribution costs. Advertising and promotional expenditures primarily include catalog production and distribution costs and online marketing, including fees paid to search engines and third party distribution partners.

Selling and marketing expense in 2008 increased \$0.3 million from 2007, primarily due to an increase of \$3.7 million in compensation and other employee-related costs, partially offset by decreases of \$2.5 million in on-air distribution costs at HSN and \$0.8 million in advertising and promotional expenditures. Compensation and other employee-related costs increased in the current year period due in part to a 7% increase in headcount as well as increased management transition costs as the prior year period was favorably impacted by the reversal of accrued severance expense. The decrease in on-air distribution costs is primarily due to lower broadcast fees related to the shutdown of America's Store in April 2007.

**General and administrative expense**

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
HSN	\$ 37,943	11%	\$ 34,171
Cornerstone	16,431	(17)%	19,795
<b>General and administrative expense</b>	<b>\$ 54,374</b>	<b>1%</b>	<b>\$ 53,966</b>
As a percentage of total revenue	8%	(6) bp	8%

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
General and administrative expense—HSN	\$ 37,943	11%	\$ 34,171
As a percentage of HSN revenue	8%	40 bp	8%
General and administrative expense—Cornerstone	\$ 16,431	(17)%	\$ 19,795
As a percentage of Cornerstone revenue	8%	(100) bp	9%



General and administrative expense consists primarily of compensation and other employee-related costs (including stock-based compensation) for personnel engaged in finance, legal, tax, human resources, information technology and executive management functions, facilities costs and fees for professional services.

General and administrative expense in 2008 increased \$0.4 million from 2007, primarily due to an increase of \$2.6 million in bad debt expense, partially offset by a decrease of \$2.0 million in professional fees. The increase in bad debt expense is primarily due to increased Flexpay sales. Flexpay, which is offered exclusively through HSN, allows customers to pay for merchandise in interest free monthly payments over a 2-6 month period. Flexpay sales were 54% and 48% of HSN's net merchandise sales for 2008 and 2007, respectively. The decrease in professional fees is primarily due to lower legal fees at Cornerstone. HSNi expects to incur increased costs related to the additional financial and legal requirements associated with being a separate public company, as well as increased non-cash compensation associated with the modification of existing stock-based compensation awards in connection with the spin-off and the grant of new awards in connection with and subsequent to the spin-off.

General and administrative expense includes non-cash compensation expense of \$2.5 million in both 2008 and 2007. As of March 31, 2008, there was approximately \$29.2 million of unrecognized compensation cost, net of estimated forfeitures, related to all equity-based awards, which is currently expected to be recognized over a weighted average period of approximately 3.0 years (exclusive of the impact of the modification related to the spin-off, which consists of the accelerated vesting of certain unvested restricted stock units and the modification of all unvested and vested stock options).

***Production and programming expense***

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
HSN	\$ 14,341	(4)%	\$ 14,867
Cornerstone	2	(84)%	13
<b>Production and programming expense</b>	<b>\$ 14,343</b>	<b>(4)%</b>	<b>\$ 14,880</b>
As a percentage of total revenue	2%	(11) bp	2%

Production and programming expense consists primarily of compensation and other employee-related costs (including stock-based compensation) for personnel engaged in production and programming at HSN.

Production and programming expense in 2008 decreased \$0.5 million from 2007, primarily due to lower broadcast fees related to the shutdown of America's Store in April 2007, partially offset by an increase of \$0.6 million in compensation and other employee-related costs.

## Depreciation

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
HSN	\$ 6,550	2%	\$ 6,414
Cornerstone	2,476	21%	2,054
<b>Depreciation</b>	<b>\$ 9,026</b>	<b>7%</b>	<b>\$ 8,468</b>
As a percentage of total revenue	1%	6 bp	1%

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
Depreciation—HSN	\$ 6,550	2%	\$ 6,414
As a percentage of HSN revenue	1%	(5) bp	1%
Depreciation—Cornerstone	\$ 2,476	21%	\$ 2,054
As a percentage of Cornerstone revenue	1%	29 bp	1%

Depreciation in 2008 increased \$0.6 million from 2007, primarily due to the incremental depreciation associated with capital expenditures made throughout 2007 and 2008, partially offset by certain fixed assets becoming fully depreciated during the period.

## Operating Income Before Amortization

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
HSN	\$ 29,935	(1)%	\$ 30,271
Cornerstone	(5,904)	NM	6,996
<b>Operating Income Before Amortization</b>	<b>\$ 24,031</b>	<b>(36)%</b>	<b>\$ 37,267</b>
As a percentage of total revenue	4%	(204) bp	6%

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
Operating Income Before Amortization—HSN	\$ 29,935	(1)%	\$ 30,271
As a percentage of HSN revenue	6%	(42) bp	7%
Operating Income Before Amortization—Cornerstone	\$ (5,904)	NM	\$ 6,996
As a percentage of Cornerstone revenue	(3)%	NM	3%

Operating Income Before Amortization in 2008 decreased \$13.2 million from 2007, primarily due to a 241 basis point decrease in gross margins and an increase of \$2.6 million in bad debt expense. Operating Income Before Amortization at HSN declined 1% to \$29.9 million, primarily driven by a decrease in gross margins of 137 basis points. Gross margins were adversely impacted by a shift in mix to lower gross margin products, primarily electronics and cookware, an increase of \$4.3 million in shipping and handling costs and the effect of merchandise clearance and promotional pricing, partially offset by lower inventory reserves. Operating Income Before Amortization at Cornerstone declined from \$7.0 million in 2007 to a loss of \$5.9 million in 2008, primarily driven by a decrease in gross margins of 390 basis points reflecting the impact of promotional pricing in response to the current retail environment.

**Operating income (loss)**

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
HSN	\$ 24,491	(11)%	\$ 27,448
Cornerstone	(9,413)	NM	2,699
<b>Operating income</b>	<b>\$ 15,078</b>	<b>(50)%</b>	<b>\$ 30,147</b>
As a percentage of total revenue	2%	(229) bp	5%

	Three Months Ended March 31,		
	2008	% Change	2007
	(Dollars in thousands)		
Operating income—HSN	\$ 24,491	(11)%	\$ 27,448
As a percentage of HSN revenue	5%	(93) bp	6%
Operating (loss) income—Cornerstone	\$ (9,413)	NM	\$ 2,699
As a percentage of Cornerstone revenue	(5)%	NM	1%

Operating income in 2008 decreased \$15.1 million from 2007, primarily due to the decrease in Operating Income Before Amortization described above.

Operating income of \$24.5 million at HSN for 2008 reflects \$3.7 million in amortization of non-cash marketing, non-cash compensation expense of \$1.6 million, an increase of \$0.4 million and amortization of intangibles of \$0.1 million, a decrease of \$1.5 million.

Operating loss of \$9.4 million at Cornerstone for 2008 reflects amortization of intangibles of \$2.1 million, a decrease of \$0.4 million and non-cash compensation expense of \$1.5 million, a decrease of \$0.4 million.

The decrease in amortization of intangibles at both HSN and Cornerstone resulted from certain intangible assets being fully amortized in 2007. The amortization of non-cash marketing referred to in this report consists of non-cash marketing and advertising secured by IAC from Universal Television as part of the IAC transaction pursuant to which Vivendi Universal Entertainment, LLLP ("VUE") was created, and the subsequent transaction by which IAC sold its partnership interests in VUE.

The disappointing results for the first quarter at Cornerstone were due, in large part, to the continuing difficult macro environment for retailers, particularly in the home and apparel categories. HSNi is taking actions in response to this environment, including reducing inventory purchases and capital and operating expenditures and revisiting merchandising and marketing, including catalog circulation, strategies. While HSNi expects full year profitability at Cornerstone, HSNi expects the remainder of 2008 to be challenging, with near term profit growth unlikely.

**Income tax provision**

For the three months ended March 31, 2008 and 2007, HSNi recorded tax provisions for continuing operations of \$5.7 million and \$11.5 million, respectively, which represent effective tax rates of 38%. The tax rates for the three months ended March 31, 2008 and 2007 are higher than the federal statutory rate of 35% due principally to state taxes.

As of December 31, 2007 and March 31, 2008, HSNi had unrecognized tax benefits of approximately \$8.9 million. Included in unrecognized tax benefits at March 31, 2008 is approximately \$8.8 million for tax positions included in IAC's consolidated tax return filings that will remain a liability of IAC after the spin-off. HSNi recognizes interest and, if applicable, penalties related to unrecognized

tax benefits in income tax expense. Included in income tax expense for 2008 is \$0.1 million, net of related deferred taxes, for interest on unrecognized tax benefits. At March 31, 2008, HSNi has accrued \$3.0 million for the payment of interest. There are no material accruals for penalties.

By virtue of previously filed separate company and consolidated tax returns with IAC, HSNi is routinely under audit by federal, state, local and foreign authorities in the area of income tax. These audits include questioning the timing and the amount of deductions and the allocation of income among various tax jurisdictions. Income taxes payable include amounts considered sufficient to pay assessments that may result from examination of prior year returns; however, the amount paid upon resolution of issues raised may differ from the amount provided. Differences between the reserves for tax contingencies and the amounts owed by HSNi are recorded in the period they become known. HSNi believes that it is reasonably possible that its unrecognized tax benefits could decrease by approximately \$2.5 million within twelve months of the current reporting date due to the reversal of deductible temporary differences which will result in a corresponding increase in net deferred tax liabilities. An estimate of other changes in unrecognized tax benefits cannot be made, but are not expected to be significant.

Under the terms of the tax sharing agreement, which will be executed in connection with the spin-off, IAC will generally retain the liability related to federal and state returns filed on a consolidated or unitary basis for all periods prior to the spin-off.

***Discontinued operations***

Discontinued operations in the accompanying combined statements of operations include Home Shopping Europe GmbH & Co. KG, and its affiliated station HSE24 ("HSE") through March 31, 2007. Quiz TV Limited and iBuy are presented as discontinued operations in the accompanying combined financial statements for all periods presented. Losses from these discontinued operations in 2008 and 2007 were \$1.1 million and \$1.6 million, respectively, net of tax. Loss from discontinued operations, net of tax, in 2008 primarily includes the losses of iBuy. Loss from discontinued operations, net of tax, in 2007 primarily includes the losses of iBuy, partially offset by the income of HSE.

## FINANCIAL POSITION, LIQUIDITY AND CAPITAL RESOURCES

As of March 31, 2008, HSNi had \$8.0 million of cash and cash equivalents.

Net cash used in operating activities attributable to continuing operations was \$20.8 million in 2008 compared to \$39.2 million in 2007, an improvement of \$18.4 million, despite a decrease of \$9.2 million in earnings from continuing operations. This improvement was due to a \$16.0 million decrease in inventories reflecting better inventory management at HSN, a significantly smaller increase in prepaid expenses and other current assets due to timing and a larger decrease in accounts receivable.

Net cash provided by investing activities attributable to continuing operations in 2008 of \$21.7 million resulted primarily from cash transfers of \$28.3 million from IAC, partially offset by capital expenditures of \$6.6 million. The cash transfers from IAC relate to IAC's centrally managed U.S. treasury function. Net cash provided by investing activities attributable to continuing operations in 2007 of \$35.0 million resulted primarily from cash transfers of \$43.1 million from IAC, partially offset by capital expenditures of \$8.2 million.

Net cash used in financing activities attributable to continuing operations in 2008 was less than \$0.1 million. Net cash provided by financing activities attributable to continuing operations in 2007 of \$1.2 million was due to excess tax benefits from stock-based awards.

Net cash provided by discontinued operations in 2008 and 2007 of \$1.7 million and \$10.7 million, respectively, relates primarily to the operations of HSN International and HSE, respectively. HSNi does not expect future cash flows associated with existing discontinued operations to be material.

HSNi anticipates that it will need to make capital and other expenditures in connection with the development and expansion of its operations.

In connection with the separation, HSNi raised \$390 million through a combination of privately issued debt securities (the "Notes") and a secured credit facility (the "Term Loan"). In addition, HSNi negotiated a \$150 million revolving credit facility (the "RCF"). The total costs, including the discount on the issuance of the Notes, incurred in connection with the issuance of the Notes and borrowings under the Term Loan and establishing the RCF are estimated to be \$16.0 million. The net proceeds are expected to be approximately \$374.0 million. In connection with the separation, HSNi will distribute the net proceeds of the financing to IAC and any cash on hand except for \$50 million which it will retain. Upon completion of the spin-off, intercompany receivable balances will be extinguished.

HSNi believes its ability to generate cash from operations, the overall capacity and terms of its financing arrangements as discussed above, and access to the equity markets, subject to restrictions under the tax sharing agreement, will be sufficient to fund its operating, investing and financing cash needs for the foreseeable future.

## CONTRACTUAL OBLIGATIONS AND COMMERCIAL COMMITMENTS

Contractual Obligations	Payments Due by Period				
	Total	Less Than 1 Year	1-3 Years	3-5 Years	More Than 5 Years
	(In thousands)				
Purchase obligations(a)	\$ 133,953	\$ 47,096	\$ 81,162	\$ 5,695	\$ —
Operating leases	129,802	31,369	41,859	33,664	22,910
<b>Total contractual cash obligations</b>	<b>\$ 263,755</b>	<b>\$ 78,465</b>	<b>\$ 123,021</b>	<b>\$ 39,359</b>	<b>\$ 22,910</b>

(a) The purchase obligations primarily relate to cable contracts and include obligations for future cable distribution and commission guarantees.

## HSNi's PRINCIPLES OF FINANCIAL REPORTING

HSNi reports Operating Income Before Amortization as a supplemental measure to generally accepted accounting principles ("GAAP"). This measure is one of the primary metrics by which HSNi evaluates the performance of its businesses, on which its internal budgets are based and by which management is compensated. HSNi believes that investors should have access to the same set of tools that it uses in analyzing its results. This non-GAAP measure should be considered in addition to results prepared in accordance with GAAP, but should not be considered a substitute for or superior to GAAP results. HSNi provides and encourages investors to examine the reconciling adjustments between the GAAP and non-GAAP measure which are discussed below.

### Definition of HSNi's Non-GAAP Measure

*Operating Income Before Amortization* is defined as operating income excluding, if applicable: (1) non-cash compensation expense and amortization of non-cash marketing, (2) amortization of intangibles and goodwill impairment, (3) pro forma adjustments for significant acquisitions, and (4) one-time items. HSNi believes this measure is useful to investors because it represents the operating results from the HSNi Businesses, taking into account depreciation, which HSNi believes is an ongoing cost of doing business, but excluding the effects of any other non-cash expenses. Operating Income Before Amortization has certain limitations in that it does not take into account the impact to HSNi's statement of operations of certain expenses, including non-cash compensation, non-cash marketing and acquisition-related accounting. HSNi endeavors to compensate for the limitations of the non-GAAP measure presented by also providing the comparable GAAP measure with equal or greater prominence and descriptions of the reconciling items, including quantifying such items, to derive the non-GAAP measure.

### Pro Forma Results

HSNi has not presented Operating Income Before Amortization for 2005 on a pro forma basis for the Cornerstone acquisition because the results of Cornerstone were included in the reported results for the majority of 2005.

### One-Time Items

Operating Income Before Amortization is presented before one-time items, if applicable. These items are truly one-time in nature and non-recurring, infrequent or unusual, and have not occurred in the past two years or are not expected to recur in the next two years, in accordance with SEC rules. For the periods presented in this report, there are no one-time items.

### Non-Cash Expenses That Are Excluded From HSNi's Non-GAAP Measure

*Non-cash compensation* expense consists principally of expense associated with the grants, including unvested grants assumed in acquisitions, of restricted stock, restricted stock units and stock options. These expenses are not paid in cash, and HSNi will include the related shares in its future calculations of diluted shares outstanding. Upon vesting of restricted stock and restricted stock units and the exercise of certain stock options, the awards will be settled, at HSNi's discretion, on a net basis, with HSNi remitting the required tax withholding amount from its current funds.

*Amortization of non-cash marketing* consists of non-cash advertising provided to HSNi by IAC. The non-cash marketing was secured by IAC from Universal Television as part of the IAC transaction pursuant to which VUE was created, and the subsequent transaction by which IAC sold its partnership interests in VUE (collectively referred to as the "NBC Universal Advertising"). The NBC Universal Advertising is available for television advertising on various NBC Universal network and cable channels without any cash cost.

The NBC Universal Advertising is excluded from Operating Income Before Amortization because it is non-cash and is incremental to the marketing and advertising that HSNi would otherwise undertake as a result of its ordinary cost/benefit marketing planning process. Accordingly, HSNi's aggregate level of advertising, and the increased concentration of that advertising on NBC Universal network and cable channels, does not reflect what HSNi's advertising effort would otherwise be without these credits. As a result, management believes that treating the NBC Universal Advertising as an expense does not appropriately reflect its true cost/benefit relationship, nor does it best reflect HSNi's long-term level of advertising expenditures. Nonetheless, while the benefits directly attributable to television advertising are always difficult to determine, and especially so with respect to the NBC Universal Advertising due to its incrementality and heavy concentration, it is likely that HSNi does derive benefits from it, though management believes such benefits are generally less than those received through its regular marketing and advertising for the reasons stated above. Operating Income Before Amortization therefore has the limitation of including those benefits while excluding the associated expense.

*Amortization of intangibles* is a non-cash expense relating primarily to acquisitions. At the time of an acquisition, the intangible assets of the acquired company, such as distribution agreements, customer relationships and merchandise agreements, are valued and amortized over their estimated lives. HSNi believes that since intangibles represent costs incurred by the acquired company to build value prior to acquisition, they were part of transaction costs.

#### **Reconciliation of Operating Income Before Amortization**

For a reconciliation of Operating Income Before Amortization to operating income for HSNi's operating segments and to net income in total for the years ended December 31, 2007, 2006 and 2005, see Note 9 to the combined financial statements. For a reconciliation of Operating Income Before Amortization to operating income for HSNi's operating segments and to net income for the three months ended March 31, 2008 and 2007, see Note 5 to the unaudited interim financial statements.

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

The following disclosure is provided to supplement the descriptions of HSNi's accounting policies contained in Note 2 to the combined financial statements in regard to significant areas of judgment. HSNi's management is required to make certain estimates and assumptions during the preparation of its combined financial statements in accordance with GAAP. These estimates and assumptions impact the reported amount of assets and liabilities and disclosures of contingent assets and liabilities as of the date of the combined financial statements. They also impact the reported amount of net income during any period. Actual results could differ from those estimates. Because of the size of the financial statement elements to which they relate, some of HSNi's accounting policies and estimates have a more significant impact on its combined financial statements than others. What follows is a discussion of some of HSNi's more significant accounting policies and estimates.

#### **Recoverability of Long-Lived Assets**

HSNi reviews the carrying value of all long-lived assets, primarily property and equipment and definite-lived intangible assets, for impairment whenever events or changes in circumstances indicate that the carrying value of an asset may be impaired. In accordance with SFAS 144, "Accounting for the Impairment or Disposal of Long-Lived Assets" ("SFAS 144"), impairment is considered to have occurred whenever the carrying value of a long-lived asset exceeds the sum of the undiscounted cash flows that is expected to result from the use and eventual disposition of the asset. The determination of cash flows is based upon assumptions that may not occur. The value of long-lived assets that is subject to assessment for impairment in accordance with SFAS 144 is \$172.6 million at December 31, 2007.

### **Recoverability of Goodwill and Indefinite-Lived Intangible Assets**

Goodwill impairment is determined using a two-step process. The first step of the process is to compare the fair value of a reporting unit with its carrying amount, including goodwill. In performing the first step, HSNi determines the fair value of its reporting units by using a discounted cash flow ("DCF") analysis. Determining fair value using a DCF analysis requires the exercise of significant judgments, including judgments about appropriate discount rates, perpetual growth rates and the amount and timing of expected future cash flows. If the fair value of a reporting unit exceeds its carrying amount, goodwill of the reporting unit is not impaired and the second step of the impairment test is not required. If the carrying amount of a reporting unit exceeds its fair value, the second step of the goodwill impairment test is required to be performed to measure the amount of impairment, if any. The second step of the goodwill impairment test compares the implied fair value of the reporting unit's goodwill with the carrying amount of that goodwill. The implied fair value of goodwill is determined in the same manner as the amount of goodwill recognized in a business combination. If the carrying amount of the reporting unit's goodwill exceeds the implied fair value of that goodwill, an impairment loss is recognized in an amount equal to that excess.

The impairment test for indefinite-lived intangible assets involves a comparison of the estimated fair value of the intangible asset with its carrying value. If the carrying value of the indefinite-lived intangible asset exceeds its fair value, an impairment loss is recognized in an amount equal to that excess. The estimates of fair value of indefinite-lived intangible assets are determined using a DCF valuation analysis that employs a "relief from royalty" methodology in estimating the fair value of its trade names and trademarks. Significant judgments inherent in this analysis include the determination of royalty rates, discount rates and the terminal growth rates.

Goodwill and indefinite-lived intangible assets, primarily trade names and trademarks, are tested annually for impairment as of October 1<sup>st</sup> or earlier upon the occurrence of certain events or substantive changes in circumstances. HSNi's 2007 annual impairment assessment did not identify an impairment. HSNi's reporting units are currently operating in dynamic and challenged industry segments. To illustrate the magnitude of potential impairment charges relative to future changes in estimated fair value, had the estimated fair value of HSNi's reporting units and their respective indefinite-lived intangible assets been hypothetically lower by 10% as of October 1, 2007, the aggregate book value of goodwill and indefinite-lived intangible assets would have exceeded fair value by approximately \$166.0 million at HSN and \$74.0 million at Cornerstone. Had the estimated fair values of HSNi's reporting units and their respective indefinite-lived intangible assets been hypothetically lower by 20% as of October 1, 2007, the book value of goodwill and indefinite lived-intangible assets would have exceeded fair value by approximately \$441.0 million at HSN and \$156.0 million at Cornerstone.

### **Returns Reserves**

Revenue from HSNi primarily consists of merchandise sales and is reduced by incentive discounts and sales returns. In accordance with Staff Accounting Bulletin 104, revenue is recorded when delivery to the customer has occurred. Delivery is considered to have occurred when the customer takes title and assumes the risks and rewards of ownership, which is generally on the date of shipment. HSNi's sales policy allows customers to return merchandise for a full refund or exchange, subject in some cases to restocking fees and exceptions for certain merchandise. Allowances for returned merchandise and other adjustments (including reimbursed shipping and handling costs) are provided based upon past experience. HSNi's returns reserves at December 31, 2007 and 2006 were based upon estimated return rates of 18.4% and 17.7%, respectively, which were arrived at based upon historical levels of actual returns. Actual levels of product returns may vary from these estimates.



### **Allowance for Doubtful Accounts**

HSNi makes judgments as to its ability to collect outstanding receivables and provide allowances when it is assessed that all or a portion of the receivable will not be collected. HSNi determines its allowance by considering a number of factors, including the length of time accounts receivable are past due, its previous loss history and the condition of the general economy. HSNi writes off accounts receivable when they become uncollectible. As of December 31, 2007, HSNi's allowance for doubtful accounts is \$8.1 million.

### **Income Taxes**

Estimates of deferred income taxes and the significant items giving rise to the deferred assets and liabilities are shown in Note 8, and reflect management's assessment of actual future taxes to be paid on items reflected in the combined financial statements, giving consideration to both timing and the probability of realization. As of December 31, 2007, the balance of deferred tax liabilities, net, is \$795.4 million. Actual income taxes could vary from these estimates due to future changes in income tax law, state income tax apportionment or the outcome of any review of IAC's tax returns by the IRS, as well as actual operating results of HSNi that vary significantly from anticipated results. Effective January 1, 2007, HSNi adopted the provisions of FIN 48. As a result of the adoption of FIN 48, HSNi recognizes liabilities for uncertain tax positions based on the two-step process prescribed by the interpretation. The first step is to evaluate the tax position for recognition by determining if the weight of available evidence indicates it is more likely than not that the position will be sustained on audit, including resolution of related appeals or litigation processes, if any. The second step is to measure the tax benefit as the largest amount which is more than 50% likely of being realized upon ultimate settlement. This measurement step is inherently difficult and requires subjective estimations of such amounts to determine the probability of various possible outcomes. HSNi considers many factors when evaluating and estimating its tax positions and tax benefits, which may require periodic adjustments and which may not accurately anticipate actual outcomes.

### **Inventory Valuation**

Inventories are valued at the lower of cost or market, cost being determined based upon the first-in, first-out method. Market is determined on the basis of net realizable value, giving consideration to obsolescence and other factors. Net realizable value is estimated by HSNi based upon historical sales data, the age of inventory, the quantity of goods on hand and the ability to return merchandise to vendors. The actual net realizable value may vary from estimates due to changes in customer tastes or viewing habits, or judgmental decisions made by merchandising personnel when ordering new products. As of December 31, 2007, HSNi had \$317.4 million of inventory on hand.

### **Seasonality**

Seasonality impacts HSNi, with revenue highest in the fourth quarter, but not to the same extent it impacts the retail industry in general.

### **New Accounting Pronouncements**

Refer to Note 2 to the combined financial statements for a description of recent accounting pronouncements.

## QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

### Foreign Currency Exchange Risk

During the second quarter of 2003, one of HSNi's foreign subsidiaries entered into a foreign exchange forward contract with a notional amount of \$38.6 million which was used to hedge against the change in value of a liability denominated in a currency other than the subsidiary's functional currency. In connection with the sale of HSE, HSNi unwound the foreign exchange forward contract during June 2007. Prior to unwinding this contract, all foreign exchange remeasurement gains and losses related to the contract and liability were recognized each period in the statements of operations and were offsetting. Subsequent to the sale of HSE, HSNi does not have significant exposure to foreign currency risk and does not hold any derivative instruments at December 31, 2007 or March 31, 2008.

## Management of HSNi

### HSNi Board of Directors and Executive Officers

The following table sets forth information as to persons who are expected to serve as HSNi directors and executive officers following the spin-offs. The HSNi Board of Directors, the composition of which complies with the independence requirements under the current standards imposed by the Marketplace Rules of the Nasdaq Stock Market (the "Marketplace Rules"), including the transitional rules set forth therein, is currently expected to consist of nine directors.

Name	Age	Position(s)
Mindy Grossman	50	Chief Executive Officer and Director of HSNi
Roxane Al-Fayez	51	President and Chief Executive Officer of Cornerstone Brands, Inc.
Gregory R. Blatt	40	Director of HSNi
Michael C. Boyd*	67	Director of HSNi
Patrick Bousquet-Chavanne*	50	Director of HSNi
William Costello	62	Director of HSNi
Mark Ethier	48	Executive Vice President and Chief Operations Officer of HSN
James Follo*	49	Director of HSNi
Stephanie Kugelman*	61	Director of HSNi
William Lynch	38	Executive Vice President/General Manager—Marketing, Content & Dot Com of HSN
Arthur C. Martinez*	68	Chairman of the Board of HSNi
Thomas J. McInerney	43	Director of HSNi
Lynne Ronon	55	Executive Vice President, Merchandising of HSN
Judy Schmeling	48	Executive Vice President and Chief Financial Officer of HSNi
James Warner	44	Executive Vice President and General Counsel of HSNi

\* *Independent Directors*

### Directors

Background information about those individuals who are expected to serve as directors of HSNi appears below.

*Mindy Grossman*, age 50, will serve as Chief Executive Officer and director of HSNi upon completion of the spin-offs. Ms. Grossman currently serves as Chief Executive Officer of IAC Retailing, a position she has held since April 2006. A 30-year veteran of the retail and apparel industries, Ms. Grossman joined IAC from Nike, Inc., where she served as Vice President and head of the company's global apparel business from October 2000 to March 2006. Prior to Nike, Ms. Grossman was President and CEO at Polo Jeans Company from October 1995 to October 2000. Ms. Grossman was Vice President of New Business at Polo Ralph Lauren Corporation from October 1994 to October 1995 and President of the Chaps Ralph Lauren division of Warnaco's Menswear division from September 1991 to October 1994. Ms. Grossman was Vice President of Sales and Merchandising at Tommy Hilfiger from June 1987 to September 1991. Ms. Grossman began her career working for a variety of other apparel companies. Ms. Grossman serves on the board of directors at the National Retail Federation, as well as the East Harlem School at Exodus House in New York. She is the Chairperson of the Fashion Institute of Technology's Executive Women in Fashion Advisory Board, and is a member of the advisory board of the J. Baker School of Retail at the Wharton School of Business.

*Gregory R. Blatt*, age 40, has served as Executive Vice President, General Counsel and Secretary of IAC since March 2005 and had previously served as Senior Vice President, General Counsel and Secretary of IAC since November 2003. Prior to joining IAC in November 2003, Mr. Blatt served as

Executive Vice President, Business Affairs and General Counsel of Martha Stewart Living Omnimedia, Inc. ("MSO") from January 2001 to October 2003, Executive Vice President and General Counsel of MSO from September 1999 to January 2001 and Senior Vice President, General Counsel of MSO from May 1999 to September 1999. Prior to joining MSO, Mr. Blatt was an associate with Grubman Indursky & Schindler, P.C., a New York entertainment and media law firm, from 1997 to May 1999, and prior to that, was an associate at Wachtell, Lipton, Rosen & Katz, a New York law firm, from 1995 to 1997.

*Michael C. Boyd*, age 67, currently serves as Chairman and CEO of Longport, Inc., a medical technology company that specializes in high resolution imaging. Mr. Boyd also serves on the Board of Directors of Shop.com and BIAP.com. Mr. Boyd was a co-founder of QVC, Inc. in 1986 and served as President until his retirement in 1994.

Mr. Boyd was nominated as a director by Liberty Media Corporation. See "Certain Relationships and Related Party Transactions—Agreements with Liberty Media Corporation."

*Patrick Bousquet-Chavanne*, age 50, currently serves as President and Chief Executive Officer of T-Ink, Inc., a company specializing in advance conductive technology, which position he assumed in July 2007. Prior to joining T-Ink, Mr. Bousquet-Chavanne served as Group President of The Estée Lauder Companies Inc. from July 2001 through June 2008. In this role, he led the Estée Lauder and other flagship brands, as well as focused on strategic opportunities for The Estée Lauder Companies across Europe and Asia. Prior to joining Estée Lauder in 1989, Mr. Bousquet-Chavanne served as Managing Director for Elizabeth Arden in the United Kingdom. He is a member of the Board of Directors of Brown-Forman Corporation, the Franco-American Business Council, and the Council for Asia-Pacific Economic Cooperation. Mr. Bousquet-Chavanne also serves on the Advisory Board of the New York City Ballet.

*William Costello*, 62, served in a number of executive positions with QVC, Inc. through his retirement in March 2007. He joined QVC as its Chief Financial Officer in November 1989. In addition to these duties, Mr. Costello became QVC's Chief Operating Officer in May 2002 and also served as President of QVC International from July 2001. Prior to joining QVC, Mr. Costello served as Chief Financial Officer, then Chief Operating Officer and a member of the board of directors of Best Products, a catalog showroom retailer. Prior to joining Best Products, Mr. Costello was a partner at KPMG LLP.

Mr. Costello was nominated as a director by Liberty Media Corporation. See "Certain Relationships and Related Party Transactions—Agreements with Liberty Media Corporation."

*James Follo*, age 49, has served as Senior Vice President and Chief Financial Officer of The New York Times Company since January 2007. From July 1998 through March 2006, Mr. Follo served in various senior financial management positions at Martha Stewart Living Omnimedia, Inc., most recently as Chief Financial and Administrative Officer.

*Stephanie Kugelman*, age 61, currently serves as a principal of A.S.O., A Second Opinion, a brand consultancy firm which she founded. Prior to founding A.S.O., Ms. Kugelman was employed by Young & Rubicam for 36 years. During her tenure at Young & Rubicam, Ms. Kugelman served in a series of increasingly senior roles, mostly recently as Vice Chairman and Chief Strategic Officer from June 2001 to March 2007 and as Chairman and Chief Executive Officer of Young & Rubicam's New York office from May 1999 to May 2001. Ms. Kugelman currently serves as a Vice Chairman Emeritus at Young & Rubicam.

*Arthur C. Martinez*, age 68, has been a director of IAC since September 2005. Mr. Martinez retired in 2000 as Chairman of the Board, President and Chief Executive Officer of Sears, Roebuck and Co., positions he held from 1995. He was Chairman and Chief Executive Officer of the former Sears Merchandise Group from 1992 to 1995. Prior to his tenure at Sears, he served as Vice Chairman and a

director of Saks Fifth Avenue from 1990 to 1992. Mr. Martinez is currently a member of the boards of directors of PepsiCo, Inc., Liz Claiborne, Inc. and International Flavors & Fragrances Inc., and currently serves as Chairman of the Supervisory Board of ABN AMRO Holding, N.V. Mr. Martinez also serves as a Trustee of Greenwich Hospital, Northwestern University and the Chicago Symphony Orchestra.

*Thomas J. McInerney*, age 43, has been Executive Vice President and Chief Financial Officer of IAC since January 2005. Mr. McInerney previously served as Chief Executive Officer of IAC's Retailing sector from January 2003 through December 2005. Prior to this time, Mr. McInerney served as Executive Vice President and Chief Financial Officer of Ticketmaster (prior to it becoming a wholly-owned subsidiary of IAC in January 2003) and its predecessor company, Ticketmaster Online-Citysearch, Inc., since May 1999. Prior to joining Ticketmaster, Mr. McInerney worked at Morgan Stanley, most recently as a Principal.

#### **Executive Officers**

Background about HSN's executive officers who are not expected to serve as directors appears below.

*Roxane Al-Fayez*, age 51, will serve as HSN's President and Chief Executive Officer of Cornerstone Brands, Inc. upon completion of the spin-offs. Ms. Al-Fayez currently serves as President and Chief Executive Officer of Cornerstone Brands, Inc., a subsidiary of HSN, a position she has held since April 2007. Prior to this time, Ms. Al-Fayez served as Executive Vice President, Chief Marketing Officer of Victoria's Secret Direct and Chief Administrative Officer of Bath & Body Works Direct, both divisions of Limited Brands Inc., from August 2005 through October 2006. Previously, Ms. Al-Fayez served as Executive Vice President of Direct Operations, Distribution and Information Technology of J. Crew Group from October 2003 through August 2005. Prior to joining J. Crew, Ms. Al-Fayez was Vice President of Operations at Gap Inc. Direct from August 1997 to October 2003.

*Mark Ethier*, age 48, will serve as Executive Vice President and Chief Operations Officer of HSN upon completion of the spin-offs, which position he has held since December 2004. He had previously served as Executive Vice President of Operations since July 2001. Prior to joining HSN, Mr. Ethier worked for The Walt Disney Company in the Disney Stores business unit from March 1997 to July 2001 in capacities of Senior Vice President Global Operations and Vice President/Chief Information Officer. Prior to joining Walt Disney, Mr. Ethier held the position of Vice President of Operations at Pacific Linen, a specialty retailer of home goods from March 1994 to March 1997, and prior to that held positions of Vice President of Operations at Builders Emporium, a hardware chain in Southern California, and Vice President of Technology at Ames Department stores, a Northeastern Discount Store chain. Mr. Ethier started his career at Sage-Allen Company, a family owned department store chain in Connecticut in 1981.

*William Lynch*, age 38, will serve as Executive Vice President/General Manager—Marketing, Content & Dot Com of HSN upon completion of the spin-offs, which position he has held since November 2007. Prior to that, Mr. Lynch served as Executive Vice President/General Manager—Dot Com from December 2006 to October 2007. Mr. Lynch has also been President and Chief Executive Officer of Gifts.com, Inc., a subsidiary of IAC, since November 2004. Prior to joining IAC, Mr. Lynch was a founder of Bandera Capital, an investment firm specializing in investing in the search marketing and e-commerce sector, where he served as a Principal from January 2004 to November 2004. Prior to Bandera Capital, Mr. Lynch was Vice President/General Manager—Web Marketing and E-Commerce of Palm, Inc. from November 2000 to January 2004. Prior to Palm, Mr. Lynch held various senior level brand management positions for consumer product companies, including Diageo, Seagram/Universal and Scout Electromedia, a Chase-Flatiron and Idealab-funded start-up, based in San Francisco.

*Lynne Ronon*, age 55, will serve as Executive Vice President, Merchandising of HSN upon completion of the spin-offs, which position she has held since October 2007. Prior to joining HSN, Ms. Ronon was Senior Vice President North Asia for Burberry from December 2003 to September 2007. Prior to joining Burberry, Ms. Ronon worked at Lane Crawford, a luxury department store based in Hong Kong, from November 2001 to July 2003. Ms. Ronon served as a consultant to Lane Crawford from 2001 to 2002 and then as Senior Vice President Commercial between 2002 and 2003. Prior to her tenure with Lane Crawford, Ms. Ronon held various positions at Saks Fifth Avenue from August 1986 to August 2001, including Senior Vice President Chief Merchant from 2000 to 2001, Senior Vice President General Merchandise Manager from 1995 to 2000, Vice President Divisional Merchandise Manager from 1987 to 1995, and Buyer for Petites from 1986 to 1987. Prior to Saks Fifth Avenue, Ms. Ronon held various positions at Gimbel's East in New York and Philadelphia.

*Judy Schmeling*, age 48, will serve as Executive Vice President and Chief Financial Officer of HSNi upon completion of the spin-offs. She currently serves as Executive Vice President and Chief Financial Officer of IAC Retailing, a position she has held since February 2002. Ms. Schmeling has held positions of increasing responsibility since joining HSN in September 1994. Prior to her role as Executive Vice President and Chief Financial Officer, Ms. Schmeling served as Senior Vice President Finance from November 1999 to February 2002. Ms. Schmeling also served as Chief Operating Officer of HSN's international operations from January 2001 to February 2002. Ms. Schmeling served as Vice President, Strategic Planning and Analysis of HSN from January 1998 to November 1999. Ms. Schmeling served as Director of Investor Relations and Operating Vice President, Finance of HSN from September 1994 to January 1998 during the time in which HSN was a separately traded public company. Prior to joining HSN, Ms. Schmeling was Managing Director of Tunstall Consulting, Inc., a corporate financial planning firm, from 1986 to 1994. Ms. Schmeling began her career at Deloitte & Touche, an international public accounting firm where she held various positions from 1982 to 1986.

*James Warner*, age 44, will serve as Executive Vice President and General Counsel of HSNi upon completion of the spin-offs. Mr. Warner currently serves as Executive Vice President and General Counsel of IAC Retailing, a position he has held since March 2007. Prior to joining IAC Retailing, Mr. Warner was based in London and served as Senior Vice President, European Counsel of Ticketmaster, a subsidiary of IAC. Mr. Warner joined Ticketmaster in January 2001 as its Vice President and European Counsel. Prior to joining Ticketmaster, Mr. Warner served as an associate and then as a partner at DMA Legal, a London law firm, between October 1997 and December 2000. Prior to that, Mr. Warner was an associate at Hemenway & Barnes in Boston, from 1993 to 1997. Mr. Warner was a law clerk to the Justices of the Massachusetts Superior Court from 1992 to 1993. Mr. Warner serves on the Board of the Electronic Retailing Association.

#### **Committees of the Board of Directors**

Concurrent with the completion of the spin-offs, the HSNi Board of Directors will establish the following committees: the Audit Committee, the Compensation and Human Resources Committee, the Nominating Committee and the Executive Committee. The composition of each such committee will satisfy the independence requirements and current standards of the SEC, Marketplace Rules and Internal Revenue Service rules (as applicable), including the transitional rules set forth therein.

**Audit Committee.** The Audit Committee of the HSNi Board of Directors will consist of Messrs. Follo, Boyd and McInerney. IAC has concluded, subject to confirmation by the HSNi Board of Directors, that Mr. Follo is an "audit committee financial expert," as such term is defined in applicable SEC rules.

The Audit Committee will function pursuant to a written charter adopted by the HSNi Board of Directors, pursuant to which it will be granted the responsibilities and authority necessary to comply with Rule 10A-3 of the Securities Exchange Act of 1934, as amended. The Audit Committee will be

appointed by the HSNi Board of Directors to assist the Board with a variety of matters, including monitoring (1) the integrity of HSNi's financial statements, (2) the effectiveness of HSNi's internal control over financial reporting, (3) the qualifications and independence of HSNi's independent registered public accounting firm, (4) the performance of HSNi's internal audit function and independent registered public accounting firm and (5) the compliance by HSNi with legal and regulatory requirements.

**Compensation and Human Resources Committee.** The Compensation and Human Resources Committee will be comprised of Ms. Kugelman and Mr. Bousquet-Chavanne and will be authorized to exercise all of the powers of the HSNi Board of Directors with respect to matters pertaining to compensation and benefits, including, but not limited to, salary matters, incentive/bonus plans, stock compensation plans, retirement programs and insurance plans.

**Nominating Committee.** The Nominating Committee will be comprised of Messrs. Follo and Martinez and will be responsible for identifying individuals qualified to become members of HSNi's Board of Directors, recommending to the Board director nominees for the annual meeting of shareholders and otherwise on an as needed basis.

**Executive Committee.** The Executive Committee will be comprised of Ms. Grossman and Messrs. Martinez and McInerny and will have all the power and authority of the HSNi Board of Directors, except those powers specifically reserved to the HSNi Board of Directors by Delaware law or HSNi's organizational documents.

**Other Committees.** In addition to the foregoing committees, the HSNi Board of Directors, by resolution, may from time to time establish other committees of the HSNi Board of Directors, consisting of one or more of its directors.

#### **Director Compensation**

**Non-Employee Director Arrangements.** Each member of the HSNi Board of Directors will receive an annual retainer in the amount of \$50,000. Each member of the Audit and Compensation and Human Resources Committees (including their respective chairs) will receive an additional annual retainer in the amount of \$10,000. Each member of the Nominating Committee will receive an additional annual retainer in the amount of \$5,000. Lastly, the chair of each of the Audit and Compensation and Human Resources Committees will receive an additional annual chairperson retainer in the amount of \$15,000.

In addition, each non-employee director will receive a grant of restricted stock units with a dollar value of \$100,000 upon his or her initial election to the HSNi Board of Directors and annually thereafter upon re-election on the date of HSNi's annual meeting of stockholders. The terms of these restricted stock units provide for (i) vesting in two equal annual installments commencing on the first anniversary of the grant date, (ii) cancellation and forfeiture of unvested units in their entirety upon termination of service with the HSNi Board of Directors and (iii) full acceleration of vesting upon a change in control of HSNi. Non-employee directors are also reimbursed for all reasonable expenses incurred in connection with attendance at HSNi Board and Committee meetings.

Mr. Martinez will serve as Chairman of the Board. As such, Mr. Martinez will be the Board's principal liaison with the company's management, with particular focus on public company reporting obligations and corporate governance matters. For his services as Chairman of the Board, Mr. Martinez will receive an annual retainer of \$350,000 and will receive \$350,000 in RSUs, on identical terms as those described above. Because it is expected that a significant part of Mr. Martinez's activities will be transitional, the Board expects to re-evaluate this compensation arrangement following the first year and periodically thereafter.

The Compensation and Human Resources Committee will have primary responsibility for establishing non-employee director compensation arrangements, which are designed to provide competitive compensation necessary to attract and retain high quality non-employee directors and to encourage ownership of HSNi stock to further align directors' interests with those of HSNi's stockholders. When considering non-employee director compensation arrangements, HSNi management will provide the Compensation and Human Resources Committee with information regarding various types of non-employee director compensation arrangements and practices of select peer companies.

***Deferred Compensation Plan for Non-Employee Directors.*** Under HSNi's Deferred Compensation Plan for Non-Employee Directors, non-employee directors will be able to defer all or a portion of their Board and Board Committee fees. Eligible directors who defer all or any portion of these fees can elect to have such fees applied to the purchase of share units, representing the number of shares of HSNi common stock that could have been purchased on the relevant date, or credited to a cash fund. If any dividends are paid on HSNi common stock, dividend equivalents will be credited on the share units. The cash fund will be credited with deemed interest at an annual rate equal to the weighted average prime lending rate of JPMorgan Chase Bank. After a director ceases to be a member of the HSNi Board of Directors, he or she will receive (i) with respect to share units, such number of shares of HSNi common stock as the share units represent and (ii) with respect to the cash fund, a cash payment in an amount equal to deferred amounts, plus accrued interest. These payments will be made in either one lump sum or up to five installments, as previously elected by the eligible director at the time of the related deferral election.

#### **Director Independence**

Under the Marketplace Rules, HSNi's Board will have a responsibility to make an affirmative determination that those members of its Board that serve as independent directors do not have any relationships with HSNi and its businesses that would impair their independence. In connection with these determinations, HSNi's Board will review information regarding transactions, relationships and arrangements involving HSNi and its businesses and each director that it deems relevant to independence, including those required by the Marketplace Rules. This information is obtained from director responses to a questionnaire circulated by HSNi management, HSNi records and publicly available information. Following these determinations, HSNi management will monitor those transactions, relationships and arrangements that are relevant to such determinations, as well as solicit updated information potentially relevant to independence from internal personnel and directors, to determine whether there have been any developments that could potentially have an adverse impact on HSNi's prior independence determinations.

#### **Compensation Committee Interlocks and Insider Participation**

HSNi's Board of Directors will have a Compensation and Human Resources Committee comprised of Ms. Kugelman and Mr. Bousquet-Chavanne, neither of whom will be or has been in the past an officer or employee of HSNi or any of its businesses at the time of their respective service on the Committee.

#### **HSNi Executive Compensation**

##### ***Compensation Discussion and Analysis***

##### ***Roles and Responsibilities***

To date, the compensation of HSNi's executive officers has been predominantly determined by IAC, acting in effect as HSNi's compensation committee. IAC's compensation process is principally driven by IAC's General Counsel, who has primary responsibility for administering compensation and making compensation recommendations, with all material decisions approved by IAC's Chairman and



Chief Executive Officer and, where appropriate, the Compensation Committee of IAC's Board of Directors (specifically with respect to all awards of IAC equity).

This Compensation Discussion and Analysis deals exclusively with historical information while HSNi has been part of IAC. Following the spin-off, HSNi will have an independent board of directors, which will in turn have a compensation committee with responsibility for establishing HSNi's compensation philosophy and programs and determining appropriate payments and awards to its executive officers. Because HSNi's compensation committee has not yet been established, HSNi cannot predict what compensation philosophies and programs will be adopted following the spin-off, and therefore this historical report is not necessarily indicative of the practices HSNi will follow when it is an independent public company.

In general, IAC has been responsible for establishing bonus pools and equity pools for HSNi, and then such pools are allocated throughout HSNi, with IAC directly establishing all compensation elements for HSNi's CEO, while the HSNi CEO makes the determinations for HSNi's other executive officers, subject to IAC's review and approval.

Neither HSNi nor IAC has an ongoing relationship with any particular compensation consulting firm, though IAC has from time to time retained the services of consultants on specific occasions regarding broad-based IAC compensation programs. At no time has a consultant been engaged with respect to compensation of any of HSNi's executive officers.

#### ***Philosophy and Objectives***

HSNi's executive officer compensation program is designed to increase long-term stockholder value by attracting, retaining, motivating and rewarding leaders with the competence, character, experience and ambition necessary to enable HSNi to meet its growth objectives.

When establishing compensation packages for a given executive, HSNi follows a flexible approach, making decisions based on a host of factors particular to a given executive situation, including HSNi's firsthand experience with the competition for recruiting and retaining executives, negotiation and discussion with the relevant individual, competitive survey data, internal equity considerations and other factors HSNi deems relevant at the time.

Similarly, HSNi has not followed an arithmetic approach to establishing compensation levels and measuring and rewarding performance, as these often fail to adequately take into account the multiple factors that contribute to success at the individual and business level. In any given period, HSNi may have multiple objectives, and these objectives, and their relative importance, often change as the competitive and strategic landscape shifts, even within a given compensation cycle. As a result, formulaic approaches often over-compensate or under-compensate a given performance level. Accordingly, HSNi has historically avoided the use of strict formulas or pre-set performance targets in its compensation practices and has relied primarily on a discretionary approach.

#### ***Compensation Elements***

HSNi's compensation packages for executive officers have primarily consisted of salary, annual bonuses, long-term incentives (typically equity awards, and in certain instances, cash plans), perquisites and other benefits. Prior to making specific decisions related to any particular element of compensation, HSNi typically reviews the total compensation of each executive, evaluating the executive's total near and long-term compensation in the aggregate. HSNi determines which element or combinations of compensation elements (salary, bonus or equity) can be used most effectively to further its compensation objectives; however, all such decisions are subjective, and made on a facts and circumstances basis without any prescribed relationship between the various elements of the total compensation package.

### *Salary*

*General.* HSNi typically negotiates a new executive officer's starting salary upon arrival, based on the executive's prior compensation history, prior compensation levels for the particular position within HSNi, HSNi's location, salary levels of other executives within HSNi, salary levels available to the individual in alternative opportunities, reference to certain survey information and the extent to which HSNi desires to secure the executive's services.

Once established, salaries can increase based on a number of factors, including the assumption of additional responsibilities, internal equity, periodic market checks and other factors which demonstrate an executive's increased value to HSNi.

HSNi utilizes various salary surveys depending upon the position to determine a market relevant range of salaries for each position. At least two surveys are used in each analysis. HSNi uses the following surveys: Towers Perrin Compensation Data Bank, Towers Perrin Retail/Wholesale Executive Compensation Survey, and the Mercer Premium Executive Remuneration Survey. Depending on a variety of individualized factors, HSNi endeavors to pay at or above the median salary range for the relevant position; however, there is no rigid approach.

2007. In 2007, Ms. Schmeling and Mr. Lynch each received salary increases in connection with entering into new employment agreements with HSNi. Based on survey and anecdotal data, HSNi determined that Ms. Schmeling's salary did not appropriately reflect her level of responsibility within the company, resulting in an increase of \$50,000 to \$400,000. Mr. Lynch assumed the responsibilities for HSN marketing and content in addition to his leadership of the online business, and as such a new salary was negotiated reflecting an increase from \$350,000 to \$450,000. Mr. Warner's salary of \$315,000 was negotiated as part of his agreement to move to Tampa and assume the role of General Counsel.

2008. In 2008, Mr. Warner's salary was increased to \$350,000 in connection with his increased responsibilities in connection with the spin-off, and Mr. Ethier's salary was increased to \$450,000 in connection with the addition of operating responsibilities relating to HSNi's catalogs business. Both of these increases were based on survey data and internal equity considerations.

### *Annual Bonuses*

*General.* HSNi's bonus program is designed to reward performance on an annual basis. Because of the variable nature of the bonus program, and because in any given year bonuses have the potential to make up a significant amount of an executive's total compensation, it provides an important incentive tool to achieve HSNi's annual objectives.

After consultation with HSNi management, IAC establishes the annual bonus pool for HSNi based on its assessment of HSNi's performance for the completed year. In large part, success has been measured based on HSNi's growth in profitability, but this is measured subjectively both in absolute terms over the prior year and in comparison to HSNi's competitors, taking into account economic and other factors, without any pre-established targets on which compensation levels are based. Additionally, consideration has sometimes been given to achievement of various strategic objectives over the course of the year and other factors IAC and HSNi's management deem relevant. No quantified weight has been given to any particular consideration and there has generally been no formulaic calculation. Rather, IAC has engaged in an overall assessment of appropriate bonus levels based on a subjective interpretation of all the relevant criteria.

IAC establishes the bonus of the HSNi CEO, taking into account her contractual bonus opportunity of 100% of salary which was established by negotiation as part of the inducement for Ms. Grossman to join HSNi. The specific bonus is established in large part based on the same considerations used in establishing the bonus pool for HSNi generally.

Ms. Grossman then establishes the bonus payments for the other executive officers out of the HSNi-wide bonus pool. Each executive officer has an annual bonus target, established by a combination of negotiation, internal equity and reference to survey data. Specific bonus payouts are determined based on the size of the bonus pool generally and the HSNi CEO's assessment of individual performance. The annual bonus target for Mr. Lynch is sixty-percent of salary and the annual target bonuses for Ms. Schmeling, Mr. Ethier and Mr. Warner are each fifty-percent of salary.

HSNi generally pays bonuses shortly after year-end following finalization of financial results for the prior year.

2007. HSNi experienced poor financial performance on both a sales and profit basis. However, HSNi's strategic repositioning plan began to take hold in the fourth quarter, with significantly improved year-over-year performance, providing a promising lead in to 2008. Based purely on annual profit performance, no bonuses would have been paid; however, IAC believed it was important to reward the late-year trend reversal and to provide increased motivation for key performers for 2008. Accordingly, a bonus pool was established that was significantly below aggregate target levels, but which provided for some level of reward compensation for key contributors, as generally determined by the HSNi CEO. The size of this pool was established on a purely subjective basis. In 2007, the performance of HSNi's catalogs business was not a significant factor in determining bonus compensation for HSNi's executive officers, as the executives of the HSN business and the catalogs business were compensated separately, though this is likely to change following the spin-off.

Out of the established bonus pool, IAC awarded Ms. Grossman a bonus of \$500,000 while the other named executive officers received bonuses of \$100,000 (Mr. Warner and Mr. Ethier), \$120,000 (Ms. Schmeling) and \$150,000 (Mr. Lynch). Because of the limited bonus pool available, these allocations were not particularly based on bonus targets but instead on subjective determinations of the HSNi CEO relating to the appropriate levels to reward, retain and motivate each individual.

#### *Long-Term Incentives*

*General.* HSNi believes that ownership shapes behavior, and that by providing a meaningful portion of an executive officer's compensation in stock, an executive's incentives are aligned with the stockholders' interests in a manner that drives better performance over time. As part of IAC, that led to each HSNi executive officer receiving IAC equity awards on a regular basis.

In setting particular award levels, the predominant objectives are providing the person with effective retention incentives, appropriate reward for past performance, and incentives for strong future performance. Appropriate levels to meet these goals may vary from year to year, and from individual to individual, based on a variety of factors.

The annual corporate performance factors relevant to setting bonus amounts that were discussed above, while taken into account, are generally less relevant in setting annual equity awards, as the awards tend to be more forward looking, and are a longer-term retention and reward instrument than annual bonuses.

Awards to the HSNi CEO are made by IAC. Additionally, IAC establishes a pool for annual equity awards which Ms. Grossman allocates to the company's employees, including the executive officers, subject to IAC's approval. In establishing the equity pool for HSNi, IAC has taken into account historical practices, its view of market compensation generally, the dilutive impact of equity grants across IAC, and other relevant factors. Additionally, IAC approves any equity grants recommended to be made to HSNi executives outside of the annual process. Executive officers receive grants that are subjectively determined based on the HSNi CEO's view of how best to allocate the equity pool for retention, reward and motivation based on a host of subjective factors (including past

contribution, retention risk, contribution potential, and market data), with grants equal to annual salary being a basic guideline.

Except where otherwise noted, HSNi grants equity awards following year-end after finalization of financial results for the prior year. The meeting of the Compensation and Human Resources Committee of the IAC Board at which the awards are made is generally scheduled months in advance and without regard to the timing of the release of earnings or other material information.

*Restricted Stock Units.* Until 2008, IAC used restricted stock units, or RSUs, as its exclusive equity compensation tool for HSNi's executive officers. Through 2006, these awards generally vested in equal annual installments over five years (annual vesting RSUs), or cliff vested at the end of five years (cliff-vesting RSUs). Annual vesting awards were intended to provide frequent rewards and near-term retention incentives, while cliff-vesting RSUs provided more of a long-term retention mechanism.

In February 2007, IAC implemented a new equity instrument, Growth Shares, which were RSU grants that cliff vested at the end of three years in varying amounts depending upon growth in IAC's publicly reported metric, Adjusted Earnings Per Share, with certain modifications.

These awards were introduced throughout IAC to more closely link long-term reward with IAC's overall performance and to provide greater retentive effect by providing the opportunity to earn greater amounts through increased IAC performance. However, in connection with the spin-off, these awards will be converted into three-year cliff-vesting awards at the "target" value (or 50% of the shares actually granted), without variability based on performance. For information regarding the reasons behind this conversion, see "The Separation—Treatment of Outstanding IAC Compensatory Equity-Based Awards."

*Stock Options.* In 2008, IAC used non-qualified stock options as its primary equity compensation tool for HSNi's executive officers to continue the shift to performance-based equity that began with the granting of Growth Shares in 2007. IAC believes that following the spin-offs, HSNi's performance will have a greater correlation to the HSNi stock price than it did to IAC's price in the current conglomerated structure, thus making stock options a more targeted equity incentive tool. Stock options generally vest in equal installments over four years. IAC continues to use RSUs with a cliff vesting schedule in certain cases to reward executive leadership, contribution and to provide a retention mechanism.

*2007.* Ms. Grossman received a grant of 12,547 Growth Shares (at target value) which reflected the fact that she had received a larger grant upon her commencement with HSNi in May 2006. Mr. Lynch received a grant of 11,768 annual vesting RSUs in connection with the employment agreement entered into at the end of 2006. The other executive officers each received a combination of Growth Shares and annual vesting RSUs pursuant to the methodology outlined above in amounts reflected in the tables below.

*2008.* Ms. Grossman received 50,000 RSUs that cliff vest at the end of four years and 250,000 IAC options that vest annually over four years. Ms. Grossman also entered into an employment agreement that will become effective upon the consummation of the spin-off (the "New Grossman Employment Agreement") pursuant to which Ms. Grossman will receive, following the spin-off, three tranches of options priced based on enterprise values of \$2.1 billion, \$2.5 billion and \$2.9 billion (or, if greater, the fair market value at the time of grant), each of which is intended to yield \$3.33 million of compensation in the event HSNi's equity value, plus a number equal to the amount of debt HSNi has outstanding at the time of the spin-off, is equal to \$3.4 billion.

Additionally, the New Grossman Employment Agreement provides for a cash-based incentive plan which provides from \$0 to \$4,000,000 in the aggregate in potential payments at the end of year 3 and

the end of year 4 based on compounded annual EBITA growth of HSNi between 10% and 15% from 2007 levels.

Mr. Lynch received a grant of 50,000 annual vesting RSUs in connection with his entering into a new employment agreement and assuming additional responsibilities at the end of 2007, while Ms. Schmeling, Mr. Ethier and Mr. Warner received option grants of 42,500, 42,500 and 31,500 IAC options, respectively, pursuant to the general methodology described above.

*Spin-Off Adjustments.* In the spin-off, equity awards denominated in IAC stock will be adjusted as described in "The Separation—Treatment of Outstanding IAC Compensatory Equity-Based Awards."

Presuming the spin-off transactions occur prior to February 2009, the following table reflects the effect of these adjustments on all equity awards held by HSNi's executive officers:

Upon Completion of the Spin-Off*					
Name	RSUs that will vest(#)	RSUs that will convert exclusively into RSUs of HSNi and vest on regular schedule(#)	RSUs that will be split among the post-transaction companies and vest after February 2009 on regular schedule(#)	Options outstanding at December 31, 2007—all of which will be split among the post-transaction companies(#)	Options granted after December 31, 2007—all of which will be converted into options of HSNi(#)
Mindy Grossman	—	94,277	21,728	—	250,000
Mark Ethier	43,249	25,096	24,903	—	42,500
William Lynch	2,354	57,061	—	—	—
Judy Schmeling	49,349	12,155	8,362	9,501	42,500
James Warner	3,908	5,249	2,928	3,130	31,500

\* Excludes 6,682, 12,616, 11,288 and 3,515 RSUs that vested since December 31, 2007 or will vest prior to August 1, 2008 for Ms. Grossman, Mr. Ethier, Ms. Schmeling and Mr. Warner, respectively.

#### ***Change of Control and Severance***

HSNi believes that providing executives with severance and change of control protection is critical to allowing executives to fully value the forward looking elements of their compensation packages, and therefore limit retention risk during uncertain times. Accordingly, HSNi's employment agreements and equity awards generally provide for salary continuation in the event of certain employment terminations beyond the control of the executive, as well as varying degrees of accelerated equity vesting in the event of a change of control of HSNi.

#### ***Other Compensation***

Ms. Grossman, who lives in New York but spends the majority of her professional time at HSNi's headquarters in Florida, received reimbursement of a variety of her Florida living and travel expenses, along with an associated tax gross-up. Under other limited circumstances, HSNi's executive officers have received non-cash and non-equity compensatory benefits. The values of these benefits are reported under the heading "Other Annual Compensation" in this filing pursuant to applicable rules, and are generally considered in determining overall compensation levels. Nonetheless, despite the fact that it reports Ms. Grossman's Florida reimbursements as compensation, HSNi does not believe Ms. Grossman receives a personal benefit as a result of such reimbursements, as they merely compensate her for the incremental expenses of commuting to and working in Florida, while her family

continues to reside in New York. The executive officers do not participate in any deferred compensation or retirement program other than IAC's 401(k) plan.

**Tax Deductibility**

IAC's practice has been to structure HSNi's compensation program in such a manner so that the compensation HSNi pays is deductible by IAC for federal income tax purposes. However, because the company's executive officers will now be subject to the limitations on deductibility under Section 162(m) of the Internal Revenue Code of 1986, as amended, and were not previously, certain compensatory arrangements established prior to the spin-off but that will be paid following the spin-off may not result in deductible compensation for HSNi.

**Summary Compensation Table**

Name and Principal Position	Year	Salary (\$)	Bonus (\$)	Stock Awards (\$)(1)	All Other Compensation (\$)(2)	Total (\$)
Mindy Grossman CEO	2007	1,000,000	500,000	499,331	128,178	2,127,509
Mark Ethier EVP and COO	2007	400,000	100,000	819,260	7,750	1,327,010
William Lynch EVP, HSN.com, Marketing and Content	2007	356,731	150,000	129,503	205,949	842,183
Judy Schmeling EVP and CFO	2007	387,500	120,000	681,413	7,750	1,196,663
James Warner EVP and General Counsel(3)	2007	259,687	110,000	153,482	40,984	564,153

- (1) Reflects the dollar amount recognized by IAC for financial statement reporting purposes for the fiscal year ended December 31, 2007, in accordance with SFAS 123R, for IAC restricted stock units ("RSUs") awarded in and prior to 2007 under IAC's stock and annual incentive plans. These amounts do not, therefore, represent the value of IAC equity compensation awarded or realized in 2007. For further discussion of IAC's accounting for its equity compensation plans, see Note 4 of IAC's audited financial statements for the fiscal year ended December 31, 2007 included in its Annual Report on Form 10-K filed with the SEC on February 29, 2008. For information on awards made and realized in 2007, see the "Grants of Plan-Based Awards" and "Option Exercises and Stock Vested" tables below.

- (2) See the table below for additional information on amounts for 2007. Pursuant to SEC rules, perquisites and personal benefits are not reported for any named executive for whom such amounts were less than \$10,000 in the aggregate for the fiscal year.

	Mindy Grossman	Mark Ethier	William Lynch	Judy Schmeling	James Warner
Housing	\$ 58,500	—	—	—	—
Relocation expenses	—	—	\$ 194,468	—	\$ 25,785
Personal travel	—	—	—	—	4,180
Tax Payments(a)	52,923	—	3,731	—	6,112
Automobile	9,005	—	—	—	—
401(k) plan company match	7,750	\$ 7,750	7,750	\$ 7,750	4,907
<b>Total All Other Compensation</b>	<b>\$ 128,178</b>	<b>\$ 7,750</b>	<b>\$ 205,949</b>	<b>\$ 7,750</b>	<b>\$ 40,984</b>

- (a) Represents tax reimbursements on income imputed (i) to Ms. Grossman related to housing provided in Florida; (ii) to Mr. Lynch related to relocation to Florida; and (iii) to Mr. Warner related to relocation to Florida and certain personal travel.
- (3) Includes compensation earned by Mr. Warner from January 1–March 12, 2007 as an employee of Ticketmaster, a subsidiary of IAC. Such amounts were converted to U.S. dollars based on an average exchange rate for 2007 of 1GBP to \$0.49987.

#### Grants of Plan-Based Awards

The table below provides information regarding IAC equity awards granted to HSNi's named executives in 2007.

Name	Grant Date	Estimated Future Payouts Under Equity Incentive Plan Awards(1)(2)			All other stock awards: Number of shares of stock or units(2)	Grant Date Fair Value of Stock and Option Awards(3)
		Threshold (#)	Target (#)	Maximum (#)		
Mindy Grossman	2/16/07	697	12,547	25,094	—	499,998
Mark Ethier	2/16/07	279	5,018	10,036	5,019	399,975
William Lynch	2/16/07	—	—	—	11,768	349,980
Judy Schmeling	2/16/07	697	12,546	25,092	5,019	699,966
James Warner	2/16/07	244	4,392	8,784	4,391	350,002

- (1) Reflects performance-based RSU awards which cliff vest at the end of three years in varying amounts depending upon growth in IAC's publicly reported metric, Adjusted Earnings Per Share, with certain modifications. The threshold amount represents 5.56% of the target payout, which amount would vest upon achieving the minimum growth threshold. These awards will be converted into three year cliff-vesting awards in the spin-offs as described under "The Separation—Treatment of Outstanding IAC Compensatory Equity-Based Awards."
- (2) RSU award recipients would be credited with amounts for cash dividends paid on IAC common stock, with such additional amounts vesting concurrently with the related RSU award. For information on the treatment of RSU awards granted to HSNi's named executives upon a termination of employment or a change in control, see the discussion under Potential Payments Upon Termination or Change in Control below.

- (3) The fair value of equity incentive plan awards is based on the target amount.

**Outstanding Equity Awards at Fiscal Year-End**

The table below provides information regarding various IAC equity awards held by HSNi's named executives as of December 31, 2007. The market value of all RSU awards is based on the closing price of IAC common stock as of December 31, 2007 (\$26.92), the last trading day of 2007.

Name	Option Awards(1)			Stock Awards(1)(2)			
	Number of securities underlying unexercised Options (#)(3) (Exercisable)	Option exercise price (\$)	Option expiration date	Number of shares or units of stock that have not vested (#)(4)	Market value of shares or units of stock that have not vested (\$)(4)	Equity incentive plan awards: Number of unearned shares, units or other rights that have not vested (#)(4)	Equity incentive plan awards: Market or payout value of unearned shares, units or other rights that have not vested (\$)(4)
Mindy Grossman	—	—	—	60,140	1,618,969	697	16,394
Mark Ethier	—	—	—	100,846	2,714,774	279	7,511
William Lynch	—	—	—	9,415	253,452	—	—
Judy Schmeling	2,500	\$ 31.00	12/20/09	—	—	—	—
	7,001	\$ 26.46	12/16/11	—	—	—	—
	—	—	—	68,608	1,846,927	697	18,763
James Warner	1,437	\$ 11.43	2/20/11	—	—	—	—
	583	\$ 17.22	5/15/11	—	—	—	—
	1,110	\$ 33.13	3/19/11	—	—	—	—
	—	—	—	—11,208	—301,719	—244	—6,568

- (1) For a discussion regarding how these IAC equity awards will be treated in the spin-offs, see "The Separation—Treatment of Outstanding IAC Compensatory Equity-Based Awards."
- (2) Amounts shown for equity incentive plan awards are based on achieving the minimum growth threshold in accordance with SEC rules.
- (3) On August 9, 2005, IAC completed the separation of its travel and travel-related businesses and investments (other than Interval and TV Travel Shop) into an independent public company (the "Expedia Spin-Off"). In connection with the Expedia Spin-Off, each then-vested option to purchase shares of IAC common stock was converted into an option to purchase shares of IAC common stock and an option to purchase shares of Expedia common stock. Adjustments were made to the number of shares subject to each IAC and Expedia stock option to give effect to the one-for-two reverse stock split effected in connection with the Expedia Spin-Off and to the corresponding exercise prices based on the relative market capitalizations of IAC and Expedia at the time of the Expedia Spin-Off. The adjusted IAC and Expedia stock options otherwise have the same terms and conditions, including exercise periods, as the corresponding vested IAC stock options outstanding immediately prior to the Expedia Spin-Off.

For the named executives, any value realized upon the exercise of Expedia stock options is treated for tax purposes as compensation payable to them in their respective capacities as executive officers of the Company. Accordingly, information regarding Expedia stock options held by HSNi's named executives as of December 31, 2007 appears in the table immediately below and



information regarding any exercises of Expedia stock options by such named executives is reported in the Option Exercises and Stock Vested table below.

Name	Number of Options (#)	Option Exercise Price (\$)	Option Expiration Date
Judy Schmeling	2,500	\$ 24.82	12/20/09
	7,500	\$ 20.06	4/25/11
	7,500	\$ 21.19	12/16/11

- (4) The table below provides the following information regarding RSU awards held by HSNi's named executives as of December 31, 2007: (i) the grant date of each award, (ii) the number of RSUs outstanding (on an aggregate and grant-by-grant basis), (iii) the market value of RSUs outstanding as of December 31, 2007, (iv) the vesting schedule for each award and (v) the total number of RSUs that vested or are scheduled to vest in each of the fiscal years ending December 31, 2008, 2009, 2010, 2011 and 2012.

Grant Date	Number of Unvested RSUs as of 12/31/07 (#)	Market Value of Unvested RSUs as of 12/31/07 (\$)	Vesting Schedule (#)				
			2008	2009	2010	2011	2012
<b>Mindy Grossman</b>							
5/17/06(a)	26,729	719,545	6,682	6,682	6,682	6,683	—
5/17/06(b)	33,411	899,424	—	—	—	33,411	—
2/16/07(c)	12,547	337,765	—	—	12,547	—	—
<i>Total</i>	<i>72,687</i>	<i>1,956,734</i>	<i>6,682</i>	<i>6,682</i>	<i>19,229</i>	<i>40,094</i>	<i>—</i>
<b>Judy Schmeling</b>							
2/12/03(d)	2,472	66,546	2,472	—	—	—	—
2/4/04(a)	5,014	134,977	2,507	2,507	—	—	—
2/10/05(a)	8,483	228,362	2,827	2,828	2,828	—	—
2/10/05(b)	37,703	1,014,965	—	—	37,703	—	—
2/6/06(a)	9,917	266,966	2,479	2,479	2,479	2,480	—
2/16/07(a)	5,019	135,111	1,004	1,004	1,004	1,004	1,004
2/16/07(c)	12,546	337,739	—	—	12,546	—	—
<i>Total</i>	<i>81,154</i>	<i>2,184,666</i>	<i>11,289</i>	<i>8,818</i>	<i>56,560</i>	<i>3,484</i>	<i>1,004</i>
<b>Mark Ethier</b>							
2/12/03(d)	2,252	60,624	2,252	—	—	—	—
2/4/04(a)	5,899	158,801	2,949	2,950	—	—	—
2/4/04(b)	29,490	793,871	—	29,490	—	—	—
2/10/05(a)	10,181	274,073	3,394	3,393	3,394	—	—
2/6/06(a)	12,073	325,005	3,018	3,018	3,018	3,019	—
2/6/06(b)	35,932	967,289	—	—	—	35,932	—
2/16/07(a)	5,019	135,111	1,003	1,004	1,004	1,004	1,004
2/16/07(c)	5,018	135,085	—	—	5,018	—	—
<i>Total</i>	<i>105,864</i>	<i>2,849,859</i>	<i>12,616</i>	<i>39,855</i>	<i>12,434</i>	<i>39,955</i>	<i>1,004</i>

<b>William Lynch</b>							
2/16/07(e)	9,415	253,452	2,354	2,353	2,354	2,354	—
<i>Total</i>	9,415	253,452	2,354	2,353	2,354	2,354	—
<b>James Warner</b>							
2/12/03(d)	541	14,564	541	—	—	—	—
2/4/04(a)	1,181	31,793	590	591	—	—	—
2/10/05(a)	2,795	75,241	931	931	933	—	—
2/6/06(a)	2,300	61,916	575	575	575	575	—
2/16/07(a)	4,391	118,206	878	878	878	878	879
2/16/07(c)	4,392	118,233	—	—	4,392	—	—
<i>Total</i>	15,600	419,953	3,515	2,975	6,778	1,453	879

- (a) These awards vest in five equal annual installments on each of the first five anniversaries of the grant date, subject to continued employment.
- (b) These awards vest in one lump sum installment on the fifth anniversary of the grant date, subject to continued employment.
- (c) Represents the initial "target" awards. See the Grants of Plan-Based Awards table and footnote (1) thereto.
- (d) These awards vest in four equal annual installments, beginning on the second anniversary of the grant date, subject to continued employment.
- (e) These awards vest in five equal annual installments on each of the first five anniversaries of October 20, 2006, the date Mr. Lynch joined HSN, subject to continued employment.

#### ***Option Exercises and Stock Vested***

The table below provides information regarding the number of shares acquired by HSNi's named executives during 2007 upon the exercise of stock options and the vesting of RSU awards and the related value realized, in each case, excluding the effect of any applicable taxes. The dollar value realized upon exercise of stock options represents the difference between (i) the sale price of the shares acquired on exercise for simultaneous exercise and sale transactions and (ii) the exercise price of the stock option, multiplied by the number of stock options that were exercised. The dollar value

realized upon vesting of RSUs represents the closing price of IAC common stock on the applicable vesting date multiplied by the number of RSUs so vesting.

Name	Option Awards		Stock Awards	
	Number of Shares Acquired on Exercise (#)	Value Realized on Exercise (\$)	Number of Shares Acquired on Vesting (#)	Value Realized on Vesting (\$)
Mindy Grossman	—	—	6,682	254,718
Mark Ethier(1)	39,375	257,962	12,279	474,429
William Lynch	—	—	2,353	63,225
Judy Schmeling	—	—	11,189	439,960
James Warner(1)	2,604	39,080	2,634	103,575

(1) Includes 24,375 and 2,604 Expedia shares acquired by Messrs. Ethier and Warner, respectively, upon the exercise of Expedia stock options received in connection with the Expedia Spin-Off.

**Potential Payments Upon Termination or Change in Control**

**Change of Control**

Pursuant to the terms of IAC's (and, following the spin-off, HSNi's) equity compensation plans and the award agreements thereunder, upon a change of control the named executive officers are generally entitled to accelerated vesting of (i) equity awards made prior to 2006 and (ii) equity awards made thereafter if, following such change in control, their employment is terminated by the company for any reason other than death, disability or cause (as defined in the relevant employment agreement), or by the executive for good reason (as defined in the relevant employment agreement) (a "Qualifying Termination"). Additionally, under the New Grossman Employment Agreement, Ms. Grossman will be entitled to full acceleration of all her equity awards that were granted prior to, or in connection with, the spin-off.

**Severance**

Cash. Upon a Qualifying Termination, HSNi's executive officers are generally entitled to salary continuation for the remainder of their agreements, except for Ms. Grossman, who will receive twenty-four months of salary continuation. The expiration dates of the employment agreements for Mr. Lynch, Ms. Schmeling, Mr. Ethier and Mr. Warner are November 19, 2010, March 31, 2009, February 28, 2010 and March 12, 2009, respectively. Additionally, under the New Grossman Employment Agreement, Ms. Grossman will also be entitled to pro rated portions of the bonus she would otherwise earn during the year in which the Qualifying Termination occurs, payable at the time such bonus would otherwise be payable. Ms. Grossman's rights under her long-term cash incentive plan continue following a Qualifying Termination.

Equity. Upon a Qualifying Termination, Ms. Grossman will receive full acceleration of her equity awards outstanding immediately following the spin-off.

Obligations. The amounts payable upon a Qualifying Termination are all subject to the execution of a general release and to compliance with confidentiality, non-compete, non-solicitation of employees and non-solicitation of customer covenants set forth in the relevant employment agreements. Salary continuation payments will be offset by the amount of any compensation earned by an executive from other employment during the severance payment period.

The amounts shown in the table assume that the termination or change in control was effective as of December 31, 2007 and that the price of IAC common stock on which certain calculations are based was the closing price of \$26.92 on The Nasdaq Stock Market on that date. These amounts are

estimates of the incremental amounts that would have been paid out to the executive upon such terminations/change in control, and do not take into account equity grants made, and contractual obligations entered into, after December 31, 2007. The actual amounts to be paid out can only be determined at the time the event actually occurs.

Name and Benefit	Termination without cause	Resignation for good reason	Death or Disability	Change in Control	Termination w/o cause or for good reason in connection with Change in Control
<b>Mindy Grossman</b>					
Cash Severance (salary)	1,333,333	1,333,333	—	—	1,333,333
RSUs (vesting accelerated)	1,618,969	1,618,969	179,879	337,765	1,956,734
Health Benefits	19,363	19,363	—	—	19,363
<b>Total estimated value</b>	<b>2,971,665</b>	<b>2,971,665</b>	<b>179,879</b>	<b>337,765</b>	<b>3,309,430</b>
<b>Mark Ethier</b>					
Cash Severance (salary)	866,667	—	—	—	866,667
RSUs (vesting accelerated)	60,291	—	52,521	1,287,368	2,849,859
<b>Total estimated value</b>	<b>927,291</b>	<b>—</b>	<b>52,521</b>	<b>1,287,368</b>	<b>3,716,526</b>
<b>William Lynch</b>					
Cash Severance (salary)	1,299,999	1,299,999	—	—	1,299,999
RSUs (vesting accelerated)	—	—	—	—	253,452
<b>Total estimated value</b>	<b>1,299,999</b>	<b>1,299,999</b>	<b>—</b>	<b>—</b>	<b>1,553,451</b>
<b>Judy Schmeling</b>					
Cash Severance (salary)	500,000	—	—	—	500,000
RSUs (vesting accelerated)	66,546	—	54,428	1,444,850	2,184,666
<b>Total estimated value</b>	<b>566,546</b>	<b>—</b>	<b>54,428</b>	<b>1,444,850</b>	<b>2,684,666</b>
<b>James Warner</b>					
Cash Severance (salary)	380,625	—	—	—	380,625
RSUs (vesting accelerated)	7,268	—	12,599	121,598	419,952
<b>Total estimated value</b>	<b>387,893</b>	<b>—</b>	<b>12,599</b>	<b>121,598</b>	<b>800,577</b>

## HSNi Security Ownership of Certain Beneficial Owners and Management

As of the date hereof, all of HSNi's outstanding shares of common stock are owned by IAC. After the distribution, IAC will no longer own any shares of HSNi common stock. The following table presents information relating to the expected beneficial ownership of shares of HSNi common stock, assuming completion of the distribution as if it occurred on April 30, 2008, by (i) each individual or entity expected to own beneficially more than 5% of the outstanding shares of HSNi common stock, assuming that there are 278,735,546 shares of common stock and Class B common stock of IAC outstanding immediately prior to the spin-offs and a distribution ratio of one-fifth of a share of HSNi common stock for every share of IAC common stock and/or Class B common stock, (ii) each director of HSNi, (iii) the Chief Executive Officer, the Chief Financial Officer and the other three named executive officers in the HSNi summary compensation table (see "HSNi Executive Compensation") and (iv) all of HSNi's executive officers and directors as a group.

Unless otherwise indicated, beneficial owners listed here may be contacted at HSNi's corporate headquarters at 1 HSN Drive, St. Petersburg, Florida 33729. For each listed person, the number of shares of HSNi common stock and percent of such class listed assumes the conversion or exercise of any HSNi equity securities owned by such person that are or will become convertible or exercisable, and the exercise of stock options and the vesting of restricted stock units, if any, that will vest, within 60 days of April 30, 2008, but does not assume the conversion, exercise or vesting of any such equity securities owned by any other person.

The share amounts for each beneficial owner listed here are based on each such individual's beneficial ownership of shares of IAC common stock and/or Class B common stock as of April 30, 2008, and assuming a distribution ratio of one-fifth of a share of HSNi common stock for every share of IAC common stock and/or Class B common stock. To the extent that HSNi directors and executive officers own shares of IAC common stock at the time of the distribution, they will participate in the distribution on the same terms as other holders of IAC common stock. In addition, following the distribution, HSNi expects that all IAC stock-based awards held by these individuals will be adjusted to become awards relating to common stock of all five companies resulting from the spin-offs. Those awards that will relate to HSNi common stock are reflected in the table below based upon the expected adjustment formula described under the caption "The Separation—Treatment of Outstanding IAC Compensatory Equity-Based Awards."

The actual number of shares of HSNi capital stock outstanding as of the date of the distribution may differ due, among other things, to the exercise of stock options or the vesting of restricted stock

units, in each case, between April 30, 2008 and the date of the distribution and to the extent the other assumptions set forth above differ from actual developments.

Name and Address of Beneficial Owner	HSNi Common Stock	
	Shares	%
Clearbridge Advisors, LLC, <i>et al</i> (1)(2) 399 Park Avenue New York, NY 10022	2,651,312	4.75
Lord Abbett & Co. LLC(1)(2) 90 Hudson Street, 11th Floor Jersey City, NJ 07302	7,839,768	14.06
Liberty Media Corporation(3)(4) 12300 Liberty Boulevard Englewood, CO 80112	16,643,961	29.86
Roxanne Al-Fayez(5)	366	*
Gregory R. Blatt(5)	9,800	*
Patrick Bousquet-Chavanne	—	—
Michael C. Boyd	—	—
William Costello	2,500	*
Mark Ethier(5)	1,873	*
James Follo	—	—
Mindy Grossman(5)	2,600	*
Stephanie Kugelman	—	—
William Lynch(5)	346	*
Arthur C. Martinez(5)	2,500	*
Thomas J. McInerney(5)	20,576	*
Lynne Ronon(5)	—	—
Judy Schmeling(5)(6)	4,963	*
James Warner(5)	346	*
All executive officers and directors as a group (15 persons)	45,870	*

\* The percentage of shares beneficially owned does not exceed 1%

- (1) We have not been able to determine the person or persons controlling the fund through publicly available information.
- (2) Based upon information regarding IAC holdings reported on a Schedule 13G, as amended, which was filed with the SEC on February 14, 2008 and a distribution ratio of one-fifth of a share of HSNi common stock for every share of IAC common stock and/or Class B common stock.
- (3) Liberty Media Corporation is a publicly traded corporation. According to Liberty Media Corporation's Schedule 14A, filed April 24, 2008, Liberty's chairman, John C. Malone, controls 33% of the voting power of Liberty Media Corporation.
- (4) Based on 58,796,381 shares of IAC common stock held by Liberty and 4,000,000, 15,618,230, 4,005,190 and 800,006 shares of IAC Class B common stock held by each of BDTV Inc., BDTV II Inc., BDTV III Inc. and BDTV IV Inc., respectively and a distribution ratio of one-fifth of a share of HSNi common stock for every share of IAC common stock and/or Class B common stock.
- (5) Excludes any equity awards that will vest upon completion of the spin-offs.
- (6) Calculation is based, in part, on 1,521 shares of IAC common stock held indirectly by Ms. Schmeling through IAC's 401(k) plan.

## DESCRIPTION OF CAPITAL STOCK OF HSNi

### General

The following is a summary of information concerning the capital stock of the Company. The summaries and descriptions below do not purport to be complete statements of the relevant provisions of the Amended and Restated Certificate of Incorporation of the Company or its by-laws. The summary is qualified by reference to these documents, which you must read for complete information on the capital stock of the Company. The Amended and Restated Certificate of Incorporation and by-laws of the Company are included as exhibits to the Company's registration statement on Form S-1, of which this prospectus is a part.

### Distributions of Securities

In the past three years, the Company has not sold any securities, including sales of reacquired securities, new issues, securities issued in exchange for property, services, or other securities, and new securities resulting from the modification of outstanding securities, that were not registered under the Securities Act.

### Common Stock

Immediately following the spin-off, our authorized capital stock will consist of 300,000,000 shares of common stock, par value \$0.01 per share, and the preferred stock described below.

*Shares Outstanding.* Immediately following the spin-off, we expect that the number of shares of common stock that we will have issued and outstanding will be approximately 55.75 million shares of common stock, par value \$0.01 per share (based on a distribution ratio of one-fifth of a share of HSNi for each share of IAC common stock and Class B common stock outstanding). This is based upon approximately 253,135,548 shares of IAC common stock and 25,599,998 shares of IAC Class B common stock outstanding as of March 31, 2008.

*Dividends.* Subject to prior dividend rights of the holders of any preferred shares, holders of shares of common stock of the Company are entitled to receive dividends when, as and if declared by its board of directors out of funds legally available for that purpose.

*Voting Rights.* Each share of common stock is entitled to one vote on all matters submitted to a vote of stockholders. Holders of shares of common stock do not have cumulative voting rights. In other words, a holder of a single share of our common stock cannot cast more than one vote for each position to be filled on our board of directors.

*Other Rights.* In the event of any liquidation, dissolution or winding up of the Company after the satisfaction in full of the liquidation preferences of holders of any preferred shares, holders of shares of our common stock are entitled to ratable distribution of the remaining assets available for distribution to stockholders. Shares of common stock are not subject to redemption by operation of a sinking fund or otherwise. Holders of shares of common stock are not currently entitled to preemptive rights.

*Fully Paid.* The issued and outstanding shares of our common stock are fully paid and non-assessable. This means the full purchase price for the outstanding shares of common stock has been paid and the holders of such shares will not be assessed any additional amounts for such shares. Any additional shares of common stock that we may issue in the future will also be fully paid and non-assessable.

## **Preferred Stock**

HSNi is authorized to issue up to 25,000,000 shares of preferred stock, par value \$.01 per share. Our board of directors, without further action by the holders of our common stock, may issue shares of preferred stock. The board of directors is vested with the authority to fix by resolution the designations, preferences and relative, participating, optional or other special rights, and such qualifications, limitations or restrictions thereof, including, without limitation, redemption rights, dividend rights, liquidation preferences and conversion or exchange rights of any class or series of preferred stock, and to fix the number of classes or series of preferred stock, the number of shares constituting any such class or series and the voting powers for each class or series.

The authority possessed by our board of directors to issue preferred stock could potentially be used to discourage attempts by third parties to obtain control of the Company through a merger, tender offer, proxy contest or otherwise by making such attempts more difficult or more costly. Our board of directors may issue preferred stock with voting rights or conversion rights that, if exercised, could adversely affect the voting power of the holders of our common stock. There are no current agreements or understandings with respect to the issuance of preferred stock and the board of directors does not have a present intention to issue any shares of preferred stock.

## **Restrictions on Payment of Dividends**

The Company is incorporated in Delaware and is governed by Delaware law. Delaware law allows a corporation to pay dividends only out of surplus, as determined under Delaware law.

## **Section 203 of the Delaware General Corporation Law**

Section 203 ("Section 203") of the Delaware General Corporation Law prohibits certain transactions between a Delaware corporation and an "interested stockholder." Generally, an "interested stockholder" for this purpose is a stockholder who is directly or indirectly a beneficial owner of 15% or more of the outstanding voting power of a Delaware corporation. This provision, if applicable, prohibits certain business combinations between an interested stockholder and a corporation for a period of three years after the date on which the stockholder became an interested stockholder, unless: (1) the transaction which resulted in the stockholder becoming an interested stockholder is approved by the corporation's board of directors before the stockholder became an interested stockholder, (2) the interested stockholder acquired at least 85% of the voting power (as calculated pursuant to Section 203) of the corporation in the transaction in which the stockholder became an interested stockholder, or (3) the business combination is approved by a majority of the board of directors and the affirmative vote of the holders of two-thirds of the outstanding voting power not owned by the interested stockholder at or subsequent to the time that the stockholder became an interested stockholder. These restrictions do not apply in certain circumstances, including if the corporation's certificate of incorporation contains a provision expressly electing not to be governed by Section 203. If such a provision is adopted by an amendment to the corporation's certificate of incorporation, the amendment will be effective immediately if, among other requirements, the corporation has never had a class of voting stock listed on a national securities exchange or held of record by more than 2,000 stockholders. If this and other requirements are not satisfied, the amendment will not be effective until 12 months after its adoption and will not apply to any business combination between the corporation and any person who became an interested stockholder on or prior to such adoption.

In accordance with Section 203, the restrictions on certain business combinations in Section 203 will not apply in respect of the Company following the spin-off.



## **Anti-takeover Effects of the Certificate of Incorporation and By-laws of HSNi and Delaware Law**

Some provisions of our Amended and Restated Certificate of Incorporation and by-laws and certain provisions of Delaware law could make the following more difficult:

- acquisition of the Company by means of a tender offer;
- acquisition of the Company by means of a proxy contest or otherwise; or
- removal of incumbent officers and directors of the Company.

### ***Size of Board and Vacancies***

Our Amended and Restated Certificate of Incorporation and by-laws provide that the number of directors on the Company's board of directors will be fixed exclusively by the board of directors. Newly created directorships resulting from any increase in the authorized number of directors will be filled by a majority of the directors then in office, provided that a majority of the entire board of directors, or a quorum, is present and any vacancies in the board of directors resulting from death, resignation, retirement, disqualification, removal from office or other cause will be filled generally by the majority vote of the remaining directors in office, even if less than a quorum is present.

### ***Elimination of Stockholder Action by Written Consent***

Our Amended and Restated certificate of incorporation and by-laws expressly eliminate the right of stockholders to act by written consent. Stockholder action must take place at the annual or a special meeting of the Company's stockholders.

### ***Stockholder Meetings***

Under our Amended and Restated Certificate of Incorporation and by-laws, stockholders are not entitled to call special meetings of stockholders; only a majority of our board of directors or specified individuals may call such meetings.

### ***Requirements for Advance Notification of Stockholder Nominations and Proposals***

Our Amended and Restated by-laws establish advance notice procedures with respect to stockholder proposals and nomination of candidates for election as directors other than nominations made by or at the direction of the board of directors or a committee of the board of directors. In particular, stockholders must notify the corporate secretary in writing prior to the meeting at which the matters are to be acted upon or directors are to be elected. The notice must contain the information specified in our Amended and Restated by-laws. To be timely, the notice must be received at the Company's principal executive office not later than 45 or more than 75 days prior to the first anniversary of the date on which the Company first mailed its proxy materials for the preceding year's annual meeting of stockholders. However, if the date of the annual meeting is advanced more than 30 days prior to or delayed by more than 30 days after the anniversary of the preceding year's annual meeting, notice by the stockholder, to be timely, must be delivered no later than the close of business on the later of the 90th day prior to such annual meeting or the 10th day following the day on which public announcement of the date of such meeting is first made. Moreover, in the event that the number of directors to be elected to the board of directors is increased and there is no public announcement by the Company naming all of the nominees for director or specifying the size of the increased board of directors at least 55 days prior to the first anniversary of the date on which the Company first mailed its proxy materials for the preceding year's annual meeting of stockholders, the stockholder's notice will be considered timely, but only with respect to nominees for any new positions created by such increase, if it is delivered to the corporate secretary at the principal executive offices of the Company not later

than the close of business on the 10th day following the day on which such public announcement is first made by the Company.

***Undesignated Preferred Stock***

The authorization in our Amended and Restated Certificate of Incorporation with respect to the issuance of undesignated preferred stock makes it possible for the our board of directors to issue preferred stock with voting or other rights or preferences that could impede the success of any attempt to change control of the Company. The provision in our Amended and Restated Certificate of Incorporation authorizing such preferred stock may have the effect of deferring hostile takeovers or delaying changes of control of the Company's management.

**NASDAQ Listing**

The Company has been approved to list its shares of common stock on NASDAQ and expects that its shares will trade under the ticker symbol "HSNI."

**Resale of HSNi Common Stock**

As security holders, you will be subject to applicable provisions of the Exchange Act and the rules and regulations thereunder, which provisions may limit the timing of purchases and sales of our securities by you. In addition, if you are deemed an "affiliate" of HSNi (as defined in Rule 405 of the Securities Act), the securities offered hereby may be deemed "restricted securities" (as defined in Rule 144 under the Securities Act) notwithstanding their registration under this registration statement. As a result you will not be able to sell the securities offered hereby absent an effective registration statement covering such sales or an available exemption from registration under the Securities Act.

## CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS

### Agreements with Liberty Media Corporation

In May 2008, in connection with the settlement of litigation relating to the proposed spin-offs, IAC entered into a "Spinco Agreement" with Liberty and affiliates of Liberty that hold shares of IAC common stock and/or Class B common stock (together with Liberty, the "Liberty Parties"), among others. At the time of the spin-offs, each Spinco will assume from IAC all of those rights and obligations under the Spinco Agreement providing for post-spin-off governance arrangements at the Spinco. As of April 30, 2008, Liberty may be deemed to beneficially own (within the meaning of Rule 13d-3 under the Exchange Act) 83,219,807 shares of IAC common stock that consists of shares of common stock and Class B common stock. Such shares constitute 29.9% of the outstanding shares of IAC common stock. Immediately following the spin-offs, it is expected that Liberty will beneficially own shares of common stock in each of the Spinco's representing approximately 29.9% of the outstanding common stock of each of the Spinco's. The following summary describes the material terms of those governance arrangements and related matters and is qualified by reference to the full Spinco Agreement, which has been filed as an exhibit to each of the Form S-1 registration statements of the Spinco's. The Spinco Agreement also requires each Spinco to enter into a registration rights agreement with the Liberty Parties at the time of the spin-offs, as described below.

#### Spinco Agreement

##### *Representation of Liberty on the Spinco Boards of Directors*

The Spinco Agreement generally provides that so long as Liberty beneficially owns securities of a Spinco representing at least 20% of the total voting power of the Spinco's equity securities, Liberty has the right to nominate up to 20% of the directors serving on the Spinco Board of Directors (rounded up to the nearest whole number). Any director nominated by Liberty must be reasonably acceptable to a majority of the directors on the Spinco's Board who were not nominated by Liberty. All but one of Liberty's nominees serving on the Spinco Board of directors must qualify as "independent" under applicable stock exchange rules. In addition, the Nominating and/or Governance committee of the Spinco Board may include only "Qualified Directors," namely directors other than any who were nominated by Liberty, are officers or employees of the Spinco or were not nominated by the Nominating and/or Governance Committee of the Spinco's Board in their initial election to the Board and for whose election any Liberty Party voted shares.

Until the second anniversary of the spin-off of a Spinco, the Liberty Parties agreed to vote all of the equity securities of a Spinco beneficially owned by them in favor of the election of the full slate of director nominees recommended to stockholders by the Spinco Board of Directors so long as the slate includes the director-candidates that Liberty has the right to nominate.

##### *Acquisition Restrictions*

The Liberty Parties have agreed in the Spinco Agreement not to acquire beneficial ownership of any equity securities of a Spinco (with specified exceptions) unless:

- the acquisition was approved by a majority of the Qualified Directors;
- the acquisition is permitted under the provisions described in "Competing Offers" below; or
- after giving effect to the acquisition, Liberty's ownership percentage of the equity securities of the Spinco, based on voting power, would not exceed the Applicable Percentage.

The "Applicable Percentage" initially is Liberty's ownership percentage upon the spin-off of a Spinco, based on voting power (expected to be approximately 30%), plus 5%, but in no event more than 35%. Following a spin-off, the Applicable Percentage for the Spinco will be reduced for specified

transfers of equity securities of the Spinco by the Liberty Parties. During the first two years following the spin-off of a Spinco, acquisitions by the Liberty Parties are further limited to specified extraordinary transactions and, otherwise, to acquisitions representing no more than one-third of the Spinco Common Stock received by the Liberty Parties in the spin-off.

#### *Standstill Restrictions*

Until the second anniversary of the spin-off, unless a majority of the Qualified Directors consent or to the extent permitted by the provisions described under "Acquisition Restrictions" or "Competing Offers" or in certain other limited circumstances, no Liberty Party may:

- offer to acquire beneficial ownership of any equity securities of such Spinco;
- initiate or propose any stockholder proposal or seek or propose to influence, advise, change or control the management, Board of Directors, governing instruments or policies or affairs of such Spinco;
- offer, seek or propose, collaborate on or encourage any merger or other extraordinary transaction;
- subject any equity securities of such Spinco to a voting agreement;
- make a request to amend any of the provisions described under "Acquisition Restrictions", "Standstill Restrictions" or "Competing Offers";
- make any public disclosure, or take any action which could reasonably be expected to require such Spinco to make any public disclosure, with respect to any of the provisions described under "Standstill Restrictions"; or
- enter into any discussions, negotiations, arrangements or understandings with any third party with respect to any of the provisions described under "Standstill Restrictions".

#### *Transfer Restrictions*

Unless a majority of the Qualified Directors consent, the Spinco Agreement prohibits transfers by the Liberty Parties of any equity securities of a Spinco to any person except for certain transfers, including:

- transfers under Rule 144 under the Securities Act (or, if Rule 144 is not applicable, in "broker transactions");
- transfers pursuant to a third party tender or exchange offer or in connection with any merger or other business combination, which merger or business combination has been approved by the Spinco;
- transfers in a public offering in a manner designed to result in a wide distribution, provided that no such transfer is made, to the knowledge of the Liberty Parties, to any person whose ownership percentage (based on voting power) of the Spinco's equity securities, giving effect to the transfer, would exceed 15%;
- a transfer of all of the equity securities of the Spinco beneficially owned by the Liberty Parties and their affiliates in a single transaction if the transferee's ownership percentage (based on voting power), after giving effect to the transfer, would not exceed the Applicable Percentage and only if the transferee assumes all of the rights and obligations (subject to limited exceptions) of the Liberty Parties under the Spinco Agreement relating to the Spinco;

- specified transfers in connection with changes in the beneficial ownership of the ultimate parent company of a Liberty Party or a distribution of the equity interests of a Liberty Party or certain similar events; and
- specified transfers relating to certain hedging transactions or stock lending transactions in respect of the Liberty Parties' equity securities in the Spinco, subject to specified restrictions.

During the first two years following the applicable spin-off, transfers otherwise permitted by the first and third bullets above will be prohibited, and transfers otherwise permitted by the fourth and sixth bullets above in respect of which IAC and the Spinco do not make certain determinations with respect to the transferee will be prohibited, unless such transfers represent no more than one-third of the Spinco Common Stock received by the Liberty Parties in the spin-off.

#### *Competing Offers*

During the period when Liberty continues to have the right to nominate directors to a Spinco's Board of Directors, if the Spinco's Board of Directors determines to pursue certain types of transactions on a negotiated basis (either through an "auction" or with a single bidder), Liberty is granted certain rights to compete with the bidder or bidders, including the right to receive certain notices and information, subject to specified conditions and limitations. In connection with any such transaction that the Spinco is negotiating with a single bidder, the Spinco's Board must consider any offer for a transaction made in good faith by Liberty but is not obligated to accept any such offer or to enter into negotiations with Liberty.

If a third party (x) commences a tender or exchange offer for at least 35% of the capital stock of the Spinco other than pursuant to an agreement with the Spinco or (y) publicly discloses that its ownership percentage (based on voting power) exceeds 20% and the Spinco's Board fails to take certain actions to block such third party from acquiring an ownership percentage of the Spinco (based on voting power) exceeding the Applicable Percentage, the Liberty Parties generally will be relieved of the obligations described under "Standstill Restrictions" and "Acquisition Restrictions" above to the extent reasonably necessary to permit Liberty to commence and consummate a competing offer. If Liberty's ownership percentage (based on voting power) as a result of the consummation of a competing offer in response to a tender or exchange offer described in (x) above exceeds 50%, any consent or approval requirements of the Qualified Directors in the Spinco Agreement will be terminated, and, following the later of the second anniversary of the applicable spin-off and the date that Liberty's ownership percentage (based on voting power) exceeds 50%, the obligations described under "Acquisition Restrictions" will be terminated.

#### *Other*

Following the spin-off of a Spinco, amendments to the Spinco Agreement and determinations required to be made thereunder (including approval of transactions between a Liberty Party and the Spinco that would be reportable under the proxy rules) will require the approval of the Qualified Directors.

#### **Registration Rights Agreement**

As indicated above under "Spinco Agreement," each Spinco will grant to Liberty the registration rights described below at the time of its spin-off.

Under the registration rights agreement, the Liberty Parties and their permitted transferees (the "Holders") will be entitled to three demand registration rights (and unlimited piggyback registration rights) in respect of the shares of Spinco common stock received by the Liberty Parties as a result of the Spinco's spin-off and other shares of Spinco common stock acquired by the Liberty Parties

consistent with the Spinco Agreement (collectively, the "Registrable Shares"). The Holders will be permitted to exercise their registration rights in connection with certain hedging transactions that they may enter into in respect of the Registrable Shares.

The Spinco will be obligated to indemnify the Holders, and each selling Holder will be obligated to indemnify the Spinco, against specified liabilities in connection with misstatements or omissions in any registration statement.

#### *Relationships Among IAC and the Spincos*

Following the spin-offs, the relationships among IAC and the Spincos will be governed by a number of agreements. These agreements include, among others:

- a Separation and Distribution Agreement;
- a Tax Sharing Agreement;
- an Employee Matters Agreement; and
- a Transition Services Agreement (collectively, the "Spin-Off Agreements").

The Spin-Off Agreements will be filed as exhibits to the respective registration statement on Form S-1 of each of the Spincos, of which this prospectus is a part, and the summaries of each such agreement are qualified by reference to the full text of the applicable agreement.

#### *Separation and Distribution Agreement*

The Separation and Distribution Agreement will set forth the arrangements among IAC and each of the Spincos regarding the principal transactions necessary to separate each of the Spincos from IAC, as well as govern certain aspects of the relationship of a Spinco with IAC and other Spincos after the completion of the spin-offs.

Each Spinco will agree to indemnify, defend and hold harmless (and to cause the other members of its respective group to indemnify, defend and hold harmless), under the Separation and Distribution Agreement, IAC and each of the other Spincos, and each of their respective current and former directors, officers and employees, from and against any losses arising out of any breach by such indemnifying companies of the Spin-Off Agreements, any failure by such indemnifying company to assume and perform any of the liabilities allocated to such company and any liabilities relating to the indemnifying company's financial and business information included in filings made with the SEC in connection with the spin-offs. IAC will agree to indemnify, defend and hold harmless each of the Spincos, and each of their respective current and former directors, officers and employees, from and against losses arising out of any breach by IAC of the Spin-Off Agreements, and any failure by IAC to perform its obligations under the Separation and Distribution Agreement or any Spin-Off Agreement.

In addition, the Separation and Distribution Agreement will also govern insurance and related reimbursement arrangements, provision and retention of records, access to information and confidentiality, cooperation with respect to governmental filings and third party consents and access to property.

#### *Tax Sharing Agreement*

The Tax Sharing Agreement governs the respective rights, responsibilities and obligations of IAC and each Spinco after the spin-off of such Spinco with respect to taxes for periods ending on or before the spin-off of such Spinco. In general, pursuant to the Tax Sharing Agreement, IAC will prepare and file the consolidated federal income tax return, and any other tax returns that include IAC (or any of its subsidiaries) and a Spinco (or any of its subsidiaries) for all taxable periods ending on or prior to, or

including, the distribution date of such Spinco with the appropriate tax authorities, and, except as otherwise set forth below, IAC will pay any taxes relating thereto to the relevant tax authority (including any taxes attributable to an audit adjustment with respect to such returns; provided that IAC will not be responsible for audit adjustments relating to the business of a Spinco (or any of its subsidiaries) with respect to pre-spin off periods if such Spinco fails to fully cooperate with IAC in the conduct of such audit). Each Spinco will prepare and file all tax returns that include solely such Spinco and/or its subsidiaries and any separate company tax returns for such Spinco and/or its subsidiaries for all taxable periods ending on or prior to, or including, the distribution date of such Spinco, and will pay all taxes due with respect to such tax returns (including any taxes attributable to an audit adjustment with respect to such returns). In the event an adjustment with respect to a pre-spin off period for which IAC is responsible results in a tax benefit to a Spinco in a post-spin off period, such Spinco will be required to pay such tax benefit to IAC. In general, IAC controls all audits and administrative matters and other tax proceedings relating to the consolidated federal income tax return of the IAC group and any other tax returns for which the IAC group is responsible.

Under the Tax Sharing Agreement a Spinco generally (i) may not take (or fail to take) any action that would cause any representation, information or covenant contained in the separation documents or the documents relating to the IRS private letter ruling and the tax opinion regarding the spin-off of such Spinco to be untrue, (ii) may not take (or fail to take) any other action that would cause the spin-off of such Spinco to lose its tax free status, (iii) may not sell, issue, redeem or otherwise acquire any of its equity securities (or equity securities of members of its group), except in certain specified transactions for a period of 25 months following the spin-off of such Spinco and (iv) may not, other than in the ordinary course of business, sell or otherwise dispose of a substantial portion of its assets, liquidate, merge or consolidate with any other person for a period of 25 months following the spin-off. Tree.com will not be subject to certain of the restrictions applicable to the other Spinco's during the 25-month period following the spin-off of each such other Spinco. During the 25-month period, a Spinco may take certain actions prohibited by these covenants if (i) it obtains IAC's prior written consent, (ii) it provides IAC with an IRS private letter ruling or an unqualified opinion of tax counsel to the effect that such actions will not affect the tax free nature of the spin-off of such Spinco, in each case satisfactory to IAC in its sole discretion, or (iii) IAC obtains a private letter ruling at such Spinco's request. In addition, with respect to actions or transactions involving acquisitions of Spinco stock entered into at least 18 months after the distribution of such Spinco, such Spinco will be permitted to proceed with such transaction if it delivers an unconditional officer's certificate establishing facts evidencing that such acquisition satisfies the requirements of a specified safe harbor set forth in applicable U.S. Treasury Regulations, and IAC, after due diligence, is satisfied with the accuracy of such certification.

Notwithstanding the receipt of any such IRS ruling, tax opinion or officer's certificate, generally each Spinco must indemnify IAC and each other Spinco for any taxes and related losses resulting from (i) any act or failure to act by such Spinco described in the covenants above, (ii) any acquisition of equity securities or assets of such Spinco or any member of its group, and (iii) any breach by such Spinco or any member of its group of any representation or covenant contained in the separation documents or the documents relating to the IRS private letter ruling or tax opinion concerning the spin-off of such Spinco.

Under U.S. federal income tax law, IAC and the Spinco's are severally liable for all of IAC's federal income taxes attributable to periods prior to and including the current taxable year of IAC, which ends on December 31, 2008. Thus, if IAC failed to pay the federal income taxes attributable to it under the Tax Sharing Agreement for periods prior to and including the current taxable year of IAC, the Spinco's would be severally liable for such taxes. In the event a Spinco is required to make a payment in respect of a spin-off related tax liability of the IAC consolidated federal income tax return group under these rules for which such Spinco is not responsible under the Tax Sharing Agreement and

full indemnification cannot be obtained from the Spinco responsible for such payment under the Tax Sharing Agreement, IAC will indemnify the Spinco that was required to make the payment from and against the portion of such liability for which full indemnification cannot be obtained from the Spinco responsible for such payment under the Tax Sharing Agreement.

The Tax Sharing Agreement also contains provisions regarding the apportionment of tax attributes of the IAC consolidated federal income tax return group, the allocation of deductions with respect to compensatory equity interests, cooperation, and other customary matters. In general, tax deductions arising by reason of exercises of options to acquire IAC or Spinco stock, vesting of "restricted" IAC or Spinco stock, or settlement of restricted stock units with respect to IAC or Spinco stock held by any person will be claimed by the party that employs such person at the time of exercise, vesting or settlement, as applicable (or in the case of a former employee, the party that last employed such person).

#### *Employee Matters Agreement*

The employee matters agreement covers a wide range of compensation and benefit issues related to the spin-offs. In general, under the employee matters agreement:

- IAC will assume or retain (i) all liabilities with respect to IAC employees, former IAC employees (excluding any former employees of the Spincos) and their dependents and beneficiaries under all IAC employee benefit plans, and (ii) all liabilities with respect to the employment or termination of employment of all IAC employees, former IAC employees (excluding any former employees of the Spincos) and their dependents and beneficiaries.
- Each Spinco will assume or retain (i) all liabilities under its employee benefit plans, and (ii) all liabilities with respect to the employment or termination of employment of all such Spinco's employees, former employees and their dependents and beneficiaries.

Subject to a transition period through the end of 2008 with respect to health and welfare benefits, after the spin-offs, the Spincos no longer will participate in IAC's employee benefit plans, but will have established their own employee benefit plans that are currently expected to be substantially similar to the plans sponsored by IAC prior to the spin-offs. Through the end of 2008, IAC will continue to provide health and welfare benefits to employees of the Spincos and each Spinco will bear the cost of this coverage with respect to its employees. Assets and liabilities from the IAC Retirement Savings Plan relating to Spinco employees and former employees will be transferred to the applicable, newly established Spinco Retirement Savings Plan as soon as practicable following the spin-offs. For a description of the treatment of outstanding IAC equity awards pursuant to the employee matters agreement, see "The Separation—Treatment of Outstanding IAC Compensatory Equity-Based Awards."

#### *Transition Services Agreement*

Pursuant to a transition services agreement among IAC and the Spincos, each of IAC and the Spincos currently expect that some combination of the following services, among others, will be provided by/to the parties (and/or their respective businesses) as set forth below on an interim, transitional basis following completion of the spin-offs:

- assistance with certain legal, finance, internal audit, human resources, insurance and tax affairs, including assistance with certain public company functions, from IAC to the Spincos;
- continued coverage/participation for employees of the Spincos under IAC health and welfare plans on the same basis as immediately prior to the distribution;
- the leasing/subleasing of office and/or data center space by IAC and its businesses to various Spincos (and vice versa);



- assistance with the implementation and hosting of certain software applications by/from IAC and its businesses for various Spinco(s) (and vice versa);
- call center and customer relations services by Ticketmaster to IAC's Reserve America business and Tree.com;
- payroll processing services by Ticketmaster to certain IAC businesses and an ILG business and by HSNi to IAC;
- tax compliance services by HSNi to ILG and accounting services by Ticketmaster to IAC; and
- such other services as to which any Spinco(s) and IAC may agree.

The charges for these services will be on a cost plus fixed percentage or hourly rate basis to be agreed upon prior to the completion of the spin-offs. In general, the services to be provided by/to the parties (and/or their respective businesses) will begin on the date of the completion of the spin-offs and will cover a period generally not expected to exceed 12 months following the spin-offs. Any party may terminate the agreement with respect to one or more particular services being received by it upon such notice as will be provided for in the transition services agreement.

#### *Commercial Agreements*

Each of the Spinco(s) currently, and for the foreseeable future, expect to provide certain services to each other pursuant to certain commercial relationships with IAC and/or other Spinco(s). Additionally, in connection with the spin-offs, each Spinco is expected to enter or has entered into various commercial agreements, primarily in the form of leases and distribution and services agreements, between their subsidiaries, on the one hand, and subsidiaries of IAC and/or one or more other Spinco(s), on the other hand, many of which will memorialize (in most material respects) pre-existing arrangements in effect prior to the spin-offs and which are intended to reflect arm's length terms and none of which is expected to constitute a material contract to the applicable Spinco. Below is a brief description of such agreements that, individually or together with similar agreements, involve revenues to either IAC or a Spinco in excess of \$120,000. Distribution agreements generally involve the payment of fees (usually on a fixed-per-transaction, revenue sharing or commission basis) from the party seeking distribution of the product or service to the party that is providing the distribution.

**HSNi.** Certain subsidiaries of HSNi distribute their respective products and services via arrangements with certain subsidiaries of IAC and/or other Spinco(s) (and vice versa). For example, HSNi sells merchandise on behalf of Shoebuy through HSN and various Cornerstone brands.

Aggregate revenues earned in respect of commercial agreements between HSNi and IAC by HSNi subsidiaries from businesses that IAC will own following the distribution were approximately \$320,000 in 2007. Aggregate payments made by HSNi subsidiaries to IAC subsidiaries in respect of these commercial agreements were approximately \$1.8 million in 2007. Such numbers include payments to and received from Entertainment Publications, Inc., which was sold by IAC subsequent to December 31, 2007.

**ILG.** Certain subsidiaries of ILG distribute their respective products and services via arrangements with certain subsidiaries of IAC and/or other Spinco(s) (and vice versa). For example, Interval promotes and distributes ticketing services for certain events, either through advance access or by passing along a deeper discount to its members via a link to the Ticketmaster booking engine.

Aggregate revenues earned in respect of commercial agreements between ILG and IAC by ILG subsidiaries from businesses that IAC will own following the distribution were not material in 2007. Aggregate payments made by ILG subsidiaries to IAC subsidiaries in respect of these agreements were approximately \$2.1 million in 2007. Such numbers include payments to and received from Entertainment Publications, Inc., which was sold by IAC subsequent to December 31, 2007.

**Ticketmaster.** Certain subsidiaries of Ticketmaster (i) distribute their respective products and services via arrangements with certain subsidiaries of IAC and/or other Spincos (and vice versa), (ii) provide certain subsidiaries of IAC and/or other Spincos with various services (and vice versa) and/or (iii) lease office space from IAC. For example:

- Ticketmaster leases its corporate headquarters in California, as well as office space for its New York City operations at IAC's headquarters, from IAC; and
- IAC's Advertising Solutions business acts as a sales agent for Ticketmaster in connection with the sale of advertising on [www.ticketmaster.com](http://www.ticketmaster.com) and websites of other Ticketmaster businesses.

Aggregate revenues earned in respect of commercial agreements between Ticketmaster and IAC by Ticketmaster subsidiaries from businesses that IAC will own following the distribution were approximately \$12.2 million in 2007. Aggregate payments made by Ticketmaster subsidiaries to IAC and its subsidiaries in respect of commercial agreements were approximately \$4.2 million in 2007. Such numbers include payments to and received from Entertainment Publications, Inc., which was sold by IAC subsequent to December 31, 2007.

**Tree.com.** Certain subsidiaries of Tree.com (i) distribute their respective products and services via arrangements with certain subsidiaries of IAC and/or other Spincos (and vice versa), (ii) provide certain subsidiaries of IAC and/or other Spincos with various services (and vice versa) and/or (iii) lease office space from IAC. For example:

- Tree.com licenses certain real estate information to IAC's Ask.com business for use in connection with real estate related search results;
- IAC's Ask.com and Citysearch businesses provide search engine marketing services and advertising to Tree.com businesses; and
- Tree.com has agreed to provide certain mortgage brokerage services to a joint venture in which IAC is a party.

Aggregate revenues earned in respect of commercial agreements between Tree.com and IAC by Tree.com subsidiaries from businesses that IAC will own following the distribution were approximately \$300,000 in 2007. Aggregate payments made by Tree.com subsidiaries to IAC subsidiaries in respect of these commercial agreements were approximately \$400,000 in 2007. Such numbers include payments to and received from Entertainment Publications, Inc., which was sold by IAC subsequent to December 31, 2007.

#### **Certain Other Relationships and Related Person Transactions**

We are currently subject to the policies and procedures of IAC regarding the review and approval of related person transactions. Immediately prior to the spin-off, we will adopt a formal written policy governing the review and approval of related person transactions. We expect that the policies we implement will require the management of the Company to determine whether any proposed transaction, arrangement or relationship with a related person fell within the definition of "transaction" set forth in Item 404(a) of Regulation S-K under the Securities Act, and if so, will require management to submit such transaction to the Company's Audit Committee for approval. The Audit Committee, in considering whether to approve related person transactions, would then consider all facts and circumstances that it deemed relevant.

The disclosure below describes related person transactions involving the Company and related parties of IAC prior to the spin-off, as well as certain relationships involving the Company and its related parties. The terms "related person" and "transaction" have the meanings set forth in Item 404(a) of Regulations S-K under the Securities Act.

HSNi works with High Fashion Garments, Inc. ("HFG") and a number of other third parties to develop new product lines and source manufacturers for existing product lines in the ordinary course of business. The brother-in-law of HSNi's Chief Executive Officer is an employee of HFG, in which capacity he assisted with the development and manufacturing of three product lines for HSN, and his spouse is a consultant for HFG, in which capacity she assisted with the design and development of a product line for HSN. While HSN purchased merchandise from HFG that was developed, manufactured and/or designed with assistance from these individuals in 2007 and 2006, no amounts were paid by either of HFG or HSN to these individuals in connection with such sales. The arrangements between HFG and the brother-in-law do not provide for the payment of any amounts relating to these purchases, and while the arrangements between HFG and the sister-in-law do provide for the payment of commissions, the relevant targets were not met.

In 2007, an HSNi subsidiary made payments to a subsidiary of Warner Music Group in the aggregate amount of approximately \$380,000 for music products. Warner Music Group is a related party of IAC because Mr. Edgar Bronfman, a member of the IAC Board of Directors, is the Chief Executive Officer of Warner Music Group.

## DESCRIPTION OF THE STOCK AND ANNUAL INCENTIVE PLAN

### Introduction

Prior to the completion of the spin-off, HSNi expects to adopt the HSN, Inc. 2008 Stock and Annual Incentive Plan. The purpose of the plan will be to assist HSNi in attracting, retaining and motivating officers and employees, and to provide HSNi with the ability to provide incentives more directly linked to the profitability of our businesses and increases in stockholder value. In addition, the plan is expected to provide for the assumption of awards pursuant to the adjustment of awards granted under current plans of IAC and its subsidiaries. See "The Separation—Treatment of Outstanding IAC Compensatory Equity-Based Awards." HSNi was incorporated in 2008 and has not yet completed its first fiscal year.

### Description

The Stock and Annual Incentive Plan is expected to contain important features that are summarized below.

### Administration

The Stock and Annual Incentive Plan will be administered by the Compensation and Human Resources Committee or such other committee of the Board as the HSNi Board of Directors may from time to time designate (the "Committee"). Among other things, the Committee will have the authority to select individuals to whom awards may be granted, to determine the type of award as well as the number of shares of HSNi common stock to be covered by each award, and to determine the terms and conditions of any such awards.

### Eligibility

In addition to individuals who hold outstanding adjusted awards, persons who serve or agree to serve as officers, employees, non-employee directors or consultants of HSNi and its subsidiaries and affiliates will be eligible to be granted awards under the Stock and Annual Incentive Plan (other than adjusted awards that are assumed in connection with the spin-offs).

### Shares Subject to the Plan

The Stock and Annual Incentive Plan will authorize the issuance of up to 5,000,000 shares of HSNi common stock pursuant to new awards under the plan, plus shares to be granted pursuant to the assumption of outstanding adjusted awards. No single participant may be granted awards covering in excess of 3,333,333 shares of HSNi common stock over the life of the Stock and Annual Incentive Plan.

The shares of HSNi common stock subject to grant under the Stock and Annual Incentive Plan are to be made available from authorized but unissued shares or from treasury shares, as determined from time to time by the HSNi Board. Other than adjusted awards, to the extent that any award is forfeited, or any option or stock appreciation right terminates, expires or lapses without being exercised, or any award is settled for cash, the shares of HSNi common stock subject to such awards not delivered as a result thereof will again be available for awards under the plan. If the exercise price of any option and/or the tax withholding obligations relating to any award are satisfied by delivering shares of HSNi common stock (by either actual delivery or by attestation), only the number of shares of HSNi common stock issued net of the shares of HSNi common stock delivered or attested to will be deemed delivered for purposes of the limits in the plan. To the extent any shares of HSNi common stock subject to an award are withheld to satisfy the exercise price (in the case of an option) and/or the tax withholding obligations relating to such award, such shares of HSNi common stock will not generally be deemed to have been delivered for purposes of the limits set forth in the plan.

In the event of certain extraordinary corporate transactions, the Committee or the HSNi Board will be able to make such substitutions or adjustments as it deems appropriate and equitable to (1) the aggregate number and kind of shares or other securities reserved for issuance and delivery under the plan, (2) the various maximum limitations set forth in the plan, (3) the number and kind of shares or other securities subject to outstanding awards; and (4) the exercise price of outstanding options and stock appreciation rights.

As indicated above, several types of stock grants can be made under the Stock and Annual Incentive Plan. A summary of these grants is set forth below. The Stock and Annual Incentive Plan will govern options and restricted stock units that convert from existing IAC options and IAC restricted stock units in connection with the spin-offs, as well as other award grants made following the spin-offs pursuant to such plans. Notwithstanding the foregoing, the terms that govern IAC options and IAC restricted stock units that convert into options and restricted stock units of HSNi in connection with the spin-offs will govern such options and restricted stock units to the extent inconsistent with the terms described below.

### **Stock Options and Stock Appreciation Rights**

Stock options granted under the Stock and Annual Incentive Plan may either be incentive stock options or nonqualified stock options. Stock appreciation rights granted under the plan may either be granted alone or in tandem with a stock option. The exercise price of options and stock appreciation rights cannot be less than 100% of the fair market value of the stock underlying the options or stock appreciation rights on the date of grant. Optionees may pay the exercise price in cash or, if approved by the Committee, in HSNi common stock (valued at its fair market value on the date of exercise) or a combination thereof, or by "cashless exercise" through a broker or by withholding shares otherwise receivable on exercise. The term of options and stock appreciation rights will be as determined by the Committee, but an ISO may not have a term longer than ten years from the date of grant. The Committee will determine the vesting and exercise schedule of options and stock appreciation rights, and the extent to which they will be exercisable after the award holder's employment terminates. Generally, unvested options and stock appreciation rights terminate upon the termination of employment, and vested options and stock appreciation rights will remain exercisable for one year after the award holder's death, disability or retirement, and 90 days after the award holder's termination for any other reason. Vested options and stock appreciation rights will also terminate upon the optionee's termination for cause (as defined in the plan). Stock options and stock appreciation rights are transferable only by will or by the laws of descent and distribution, or pursuant to a qualified domestic relations order or in the case of nonqualified stock options or stock appreciation rights, as otherwise expressly permitted by the Committee including, if so permitted, pursuant to a transfer to the participant's family members, to a charitable organization, whether directly or indirectly or by means of a trust or partnership or otherwise.

### **Restricted Stock**

Restricted stock may be granted with such restriction periods as the Committee may designate. The Committee may provide at the time of grant that the vesting of restricted stock will be contingent upon the achievement of applicable performance goals and/or continued service. In the case of performance-based awards that are intended to qualify under Section 162(m)(4) of the Internal Revenue Code of 1986, as amended, (i) such goals will be based on the attainment of one or any combination of the following: specified levels of earnings per share from continuing operations, net profit after tax, EBITDA, EBITA, gross profit, cash generation, unit volume, market share, sales, asset quality, earnings per share, operating income, revenues, return on assets, return on operating assets, return on equity, profits, total shareholder return (measured in terms of stock price appreciation and/or dividend growth), cost saving levels, marketing-spending efficiency, core non-interest income, change in

working capital, return on capital and/or stock price, with respect to HSNi or any subsidiary, division or department of HSNi. Such performance goals also may be based upon the attaining of specified levels of HSNi, subsidiary, affiliate or divisional performance under one or more of the measures described above relative to the performance of other entities, divisions or subsidiaries. Performance goals based on the foregoing factors are hereinafter referred to as "Performance Goals." The terms and conditions of restricted stock awards (including any applicable Performance Goals) need not be the same with respect to each participant. During the restriction period, the Committee may require that the stock certificates evidencing restricted shares be held by HSNi. Restricted stock may not be sold, assigned, transferred, pledged or otherwise encumbered, and is forfeited upon termination of employment, unless otherwise provided by the Committee. Other than such restrictions on transfer and any other restrictions the Committee may impose, the participant will have all the rights of a stockholder with respect to the restricted stock award.

#### **Restricted Stock Units**

The Committee may grant restricted stock units payable in cash or shares of HSNi common stock, conditioned upon continued service and/or the attainment of Performance Goals determined by the Committee. The terms and conditions of restricted stock unit awards (including any Performance Goals) need not be the same with respect to each participant.

#### **Other Stock-Based Awards**

Other awards of HSNi common stock and other awards that are valued in whole or in part by reference to, or are otherwise based upon, HSNi common stock, including (without limitation), unrestricted stock, dividend equivalents and convertible debentures, may be granted under the plan.

#### **Bonus Awards**

Bonus awards granted to eligible employees of HSNi and its subsidiaries and affiliates under the Stock and Annual Incentive Plan will be based upon the attainment of the Performance Goals established by the Committee for the plan year or such shorter performance period as may be established by the Committee. Bonus amounts earned by any individual will be limited to \$10 million for any plan year, pro rated (if so determined by the Committee) for any shorter performance period. Bonus amounts will be paid in cash or, in the discretion of HSNi, in HSNi common stock, as soon as practicable following the end of the plan year. The Committee may reduce or eliminate a participant's bonus award in any year notwithstanding the achievement of Performance Goals.

#### **Change in Control**

In the event of a Change of Control (as defined in the Stock and Annual Incentive Plan), the Committee will have the discretion to determine the treatment of awards granted under the Stock and Annual Incentive Plan, including providing for the acceleration of such awards upon the occurrence of the Change of Control and/or upon a qualifying termination of employment (*e.g.*, without cause or for good reason) following the Change of Control.

#### **Amendment and Discontinuance**

The Stock and Annual Incentive Plan may be amended, altered or discontinued by the HSNi Board, but no amendment, alteration or discontinuance may impair the rights of an optionee under an option or a recipient of an SAR, restricted stock award, restricted stock unit award or bonus award previously granted without the optionee's or recipient's consent. Amendments to the Stock and Annual Incentive Plan will require stockholder approval to the extent such approval is required by law or agreement.

## **Federal Income Tax Consequences**

The following discussion is intended only as a brief summary of the federal income tax rules that are generally relevant to stock options. The laws governing the tax aspects of awards are highly technical and such laws are subject to change.

*Nonqualified Options.* Upon the grant of a nonqualified option, the optionee will not recognize any taxable income and IAC will not be entitled to a deduction. Upon the exercise of such an option or related SAR, the excess of the fair market value of the shares acquired on the exercise of the option or SAR over the exercise price or the cash paid under an SAR (the "spread") will constitute compensation taxable to the optionee as ordinary income. HSNi, in computing its U.S. federal income tax, will generally be entitled to a deduction in an amount equal to the compensation taxable to the optionee, subject to the limitations of Code Section 162(m).

*ISOs.* An optionee will not recognize taxable income on the grant or exercise of an ISO. However, the spread at exercise will constitute an item includible in alternative minimum taxable income, and, thereby, may subject the optionee to the alternative minimum tax. Such alternative minimum tax may be payable even though the optionee receives no cash upon the exercise of the ISO with which to pay such tax.

Upon the disposition of shares of stock acquired pursuant to the exercise of an ISO, after the later of (i) two years from the date of grant of the ISO or (ii) one year after the transfer of the shares to the optionee (the "ISO Holding Period"), the optionee will recognize long-term capital gain or loss, as the case may be, measured by the difference between the stock's selling price and the exercise price. HSNi is not entitled to any tax deduction by reason of the grant or exercise of an ISO, or by reason of a disposition of stock received upon exercise of an ISO if the ISO Holding Period is satisfied. Different rules apply if the optionee disposes of the shares of stock acquired pursuant to the exercise of an ISO before the expiration of the ISO Holding Period.

## **USE OF PROCEEDS**

We will not receive any proceeds from the distribution of our common stock in the spin-off. Any proceeds received by us from the exercise of the stock options covered by the Stock and Annual Incentive Plan will be used for general corporate purposes.

## **DETERMINATION OF OFFERING PRICE**

No consideration will be paid for the shares of common stock distributed in the spin-off.

## **LEGAL MATTERS**

The validity of the shares of our common stock issued in the spin-off will be passed upon by the General Counsel of IAC/InterActiveCorp. Certain tax matters will be passed upon by Wachtell, Lipton, Rosen & Katz.

## **EXPERTS**

The combined financial statements of HSNi at December 31, 2007 and 2006 and for each of the three years in the period ended December 31, 2007 and the related financial statements schedule included in this prospectus have been so included in reliance on the reports of Ernst & Young LLP, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

## WHERE YOU CAN FIND MORE INFORMATION

We have filed a registration statement on Form S-1 with the SEC with respect to the shares of our common stock being registered hereunder. This prospectus, which is a part of such registration statement, does not include all of the information that you can find in such registration statement or the exhibits to such registration statement. You should refer to the registration statement, including its exhibits and schedules, for further information about us and our common stock. Statements contained in this prospectus as to the contents of any contract or document are not necessarily complete and, if the contract or document is filed as an exhibit to a registration statement, is qualified in all respects by reference to the relevant exhibit.

After the spin-off, we will file annual, quarterly and current reports, proxy statements and other information with the SEC. The registration statement is, and any of these future filings with the SEC will be, available to the public over the Internet on the SEC's website at [www.sec.gov](http://www.sec.gov). You may read and copy any filed document at the SEC's public reference rooms in Washington, D.C. at 100 F Street, N.E., Washington, D.C. 20549 and at the SEC's regional offices in New York at 233 Broadway, New York, New York 10279 and in Chicago at Citicorp Center, 500 W. Madison Street, Suite 1400, Chicago, Illinois 60661. Please call the SEC at 1-800-SEC-0330 for further information about the public reference rooms.



**HSN, INC. AND SUBSIDIARIES  
COMBINED FINANCIAL STATEMENTS**

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## Report of Independent Registered Public Accounting Firm

We have audited the accompanying combined balance sheets of HSN, Inc. and subsidiaries as of December 31, 2007 and 2006, and the related combined statements of operations, invested equity, and cash flows for each of the three years in the period ended December 31, 2007. Our audits also included the financial statement schedule on page F-32. These financial statements and financial statement schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements and the financial statement schedule based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. We were not engaged to perform an audit of the Company's internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the combined financial position of HSN, Inc. and subsidiaries at December 31, 2007 and 2006, and the combined results of their operations and their cash flows for each of the three years in the period ended December 31, 2007, in conformity with U.S. generally accepted accounting principles. Also, in our opinion, the related financial statement schedule, when considered in relation to the basic combined financial statements taken as a whole, presents fairly in all material respects the information set forth therein.

/s/ Ernst & Young LLP

New York, New York  
May 5, 2008

**HSN, INC. AND SUBSIDIARIES**  
**COMBINED STATEMENTS OF OPERATIONS**

	Years Ended December 31,		
	2007	2006	2005
	(In thousands)		
Revenue	\$ 2,908,242	\$ 2,877,954	\$ 2,670,951
Cost of sales (exclusive of depreciation shown separately below)	1,820,048	1,765,203	1,647,857
	1,088,194	1,112,751	1,023,094
Gross margin			
Selling and marketing expense	595,911	584,997	500,877
General and administrative expense	211,955	186,261	171,180
Production and programming expense	59,051	56,800	55,494
Amortization of non-cash marketing	4,442	—	—
Amortization of intangibles	12,681	34,224	59,444
Depreciation	34,363	37,273	40,947
	169,791	213,196	195,152
Operating income			
Other income (expense):			
Interest income	252	586	345
Interest expense	—	—	(992)
Other expense	(256)	(1,040)	(1,118)
	(4)	(454)	(1,765)
Total other expense, net			
Earnings from continuing operations before income taxes	169,787	212,742	193,387
Income tax provision	(64,554)	(79,210)	(66,310)
	105,233	133,532	127,077
<b>Earnings from continuing operations</b>			
Gain on sale of discontinued operations, net of tax	30,572	—	73,335
Income (loss) from discontinued operations, net of tax	28,999	(10,715)	22,809
	164,804	122,817	223,221
<b>Net income</b>	\$ 164,804	\$ 122,817	\$ 223,221

The accompanying Notes to Combined Financial Statements are an integral part of these statements.

HSN, INC. AND SUBSIDIARIES

COMBINED BALANCE SHEETS

	December 31, 2007	December 31, 2006
(In thousands)		
<b>ASSETS</b>		
Cash and cash equivalents	\$ 6,220	\$ 53,367
Accounts receivable, net of allowance of \$8,112 and \$5,994, respectively	192,609	158,416
Inventories	317,411	313,913
Deferred income taxes	24,606	22,864
Assets held for sale	—	226,880
Prepaid expenses and other current assets	55,182	53,323
	<hr/>	<hr/>
Total current assets	596,028	828,763
Property and equipment, net	155,805	143,209
Goodwill	2,884,389	2,883,769
Intangible assets, net	571,662	584,343
Other non-current assets	12,747	18,083
	<hr/>	<hr/>
<b>TOTAL ASSETS</b>	<b>\$ 4,220,631</b>	<b>\$ 4,458,167</b>
<b>LIABILITIES AND INVESTED EQUITY</b>		
<b>LIABILITIES:</b>		
Accounts payable, trade	\$ 260,531	\$ 250,782
Income taxes payable	1,811	2,606
Liabilities held for sale	—	64,345
Accrued expenses and other current liabilities	186,501	170,438
	<hr/>	<hr/>
Total current liabilities	448,843	488,171
Other long-term liabilities	8,933	9,709
Deferred income taxes	819,969	836,571
Commitments and contingencies		
<b>INVESTED EQUITY:</b>		
Invested capital	4,522,873	4,569,019
Receivables from IAC and subsidiaries	(1,581,157)	(1,483,873)
Accumulated other comprehensive income	1,170	38,570
	<hr/>	<hr/>
Total invested equity	2,942,886	3,123,716
	<hr/>	<hr/>
<b>TOTAL LIABILITIES AND INVESTED EQUITY</b>	<b>\$ 4,220,631</b>	<b>\$ 4,458,167</b>

The accompanying Notes to Combined Financial Statements are an integral part of these statements.

HSN, INC. AND SUBSIDIARIES

COMBINED STATEMENTS OF INVESTED EQUITY

	Total	Invested Capital	Receivables from IAC and Subsidiaries	Accumulated Other Comprehensive Income
	(In thousands)			
<b>Balance as of December 31, 2004</b>	\$ 2,464,651	\$ 2,791,731	\$ (358,947)	\$ 31,867
Comprehensive income:				
Net income for the year ended December 31, 2005	223,221	223,221	—	—
Foreign currency translation	(13,561)	—	—	(13,561)
Net losses on derivative contracts	(496)	—	—	(496)
Comprehensive income	209,164			
Net transfers from IAC(a)	1,430,971	1,430,971	—	—
Net change in receivables from IAC and subsidiaries	(946,426)	—	(946,426)	—
<b>Balance as of December 31, 2005</b>	3,158,360	4,445,923	(1,305,373)	17,810
Comprehensive income:				
Net income for the year ended December 31, 2006	122,817	122,817	—	—
Foreign currency translation	16,441	—	—	16,441
Net gains on derivative contracts	4,319	—	—	4,319
Comprehensive income	143,577			
Net transfers from IAC	279	279	—	—
Net change in receivables from IAC and subsidiaries	(178,500)	—	(178,500)	—
<b>Balance as of December 31, 2006</b>	3,123,716	4,569,019	(1,483,873)	38,570
Comprehensive income:				
Net income for the year ended December 31, 2007	164,804	164,804	—	—
Foreign currency translation	(35,045)	—	—	(35,045)
Net losses on derivative contracts	(2,355)	—	—	(2,355)
Comprehensive income	127,404			
Cumulative effect of adoption of FIN 48	(225)	(225)	—	—
Net transfers to IAC (principally transfer of investment and contingent value right)(b)	(210,725)	(210,725)	—	—
Net change in receivables from IAC and subsidiaries	(97,284)	—	(97,284)	—
<b>Balance as of December 31, 2007</b>	\$ 2,942,886	\$ 4,522,873	\$ (1,581,157)	\$ 1,170

- (a) Consists principally of a capital contribution made in connection with restructuring steps implemented in order for IAC to spin-off its travel related businesses and funding for the acquisition of Cornerstone Brands. See Note 3 for a further discussion of the acquisition of Cornerstone Brands.
- (b) See Note 15 for a further discussion of these transfers.

The accompanying Notes to Combined Financial Statements are an integral part of these statements.

**HSN, INC. AND SUBSIDIARIES**  
**COMBINED STATEMENTS OF CASH FLOWS**

	Years Ended December 31,		
	2007	2006	2005
	(In thousands)		
<b>Cash flows from operating activities attributable to continuing operations:</b>			
Net income	\$ 164,804	\$ 122,817	\$ 223,221
Less: (income) loss from discontinued operations, net of tax	(59,571)	10,715	(96,144)
<b>Earnings from continuing operations</b>	<b>105,233</b>	<b>133,532</b>	<b>127,077</b>
Adjustments to reconcile earnings from continuing operations to net cash provided by operating activities attributable to continuing operations:			
Amortization of intangibles	12,681	34,224	59,444
Depreciation	34,363	37,273	40,947
Non-cash compensation expense	12,160	11,746	13,725
Amortization of cable and satellite distribution fees	4,866	29,565	70,401
Amortization of non-cash marketing	4,442	—	—
Deferred income taxes	(11,803)	(15,282)	(38,945)
Excess tax benefits from stock-based awards	—	—	49,889
Bad debt expense	14,598	10,734	10,793
Inventory carrying value adjustment	9,100	6,164	(833)
Increase in cable and satellite distribution fees	—	(16,876)	(24,011)
Changes in current assets and liabilities:			
Accounts receivable	(53,130)	(15,382)	(28,206)
Inventories	(12,598)	(29,579)	9,491
Prepaid expenses and other current assets	(2,212)	(1,459)	4,325
Accounts payable and other current liabilities	29,001	(16,138)	(20,073)
Income taxes payable	(9,799)	1,016	(74,365)
Other, net	682	(1,833)	396
<b>Net cash provided by operating activities attributable to continuing operations</b>	<b>137,584</b>	<b>167,705</b>	<b>200,055</b>
<b>Cash flows from investing activities attributable to continuing operations:</b>			
Transfers to IAC	(91,560)	(188,269)	(803,768)
Acquisitions, net of cash acquired	(935)	(338)	(704,531)
Capital expenditures	(48,714)	(35,985)	(36,037)
Other, net	1,048	164	4,475
<b>Net cash used in investing activities attributable to continuing operations</b>	<b>(140,161)</b>	<b>(224,428)</b>	<b>(1,539,861)</b>
<b>Cash flows from financing activities attributable to continuing operations:</b>			
Capital contributions from IAC	—	—	1,429,660
Principal payments on long-term obligations	—	—	(36,876)
Excess tax benefits from stock-based awards	2,401	2,269	—
Other, net	(10)	—	—
<b>Net cash provided by financing activities attributable to continuing operations</b>	<b>2,391</b>	<b>2,269</b>	<b>1,392,784</b>
<b>Total cash (used in) provided by continuing operations</b>	<b>(186)</b>	<b>(54,454)</b>	<b>52,978</b>
Net cash (used in) provided by operating activities attributable to discontinued operations	(8,956)	(27,931)	2,881
Net cash (used in) provided by investing activities attributable to discontinued operations	(965)	(8,526)	180,406
Net cash used in financing activities attributable to discontinued operations	(38,571)	(1,748)	(167,210)
<b>Total cash (used in) provided by discontinued operations</b>	<b>(48,492)</b>	<b>(38,205)</b>	<b>16,077</b>
Effect of exchange rate changes on cash and cash equivalents	1,531	7,788	(17,138)
<b>Net (decrease) increase in cash and cash equivalents</b>	<b>(47,147)</b>	<b>(84,871)</b>	<b>51,917</b>
Cash and cash equivalents at beginning of period	53,367	138,238	86,321
<b>Cash and cash equivalents at end of period</b>	<b>\$ 6,220</b>	<b>\$ 53,367</b>	<b>\$ 138,238</b>

The accompanying Notes to Combined Financial Statements are an integral part of these statements.

## NOTES TO COMBINED FINANCIAL STATEMENTS

## NOTE 1—ORGANIZATION AND BASIS OF PRESENTATION

**Spin-Off**

On November 5, 2007, IAC/InterActiveCorp ("IAC") announced that its Board of Directors approved a plan to separate IAC into five publicly traded companies, identifying HSN, Inc. ("HSNi") as one of those five companies. In these combined financial statements, we refer to the separation transaction herein as the "spin-off." In connection with the spin-off, HSNi was incorporated as a Delaware corporation in May 2008. HSNi currently does not have any material assets or liabilities, nor does it engage in any business or other activities and, other than in connection with the spin-off, will not acquire or incur any material assets or liabilities, nor will it engage in any business or other activities. Upon completion of the spin-off, HSNi will primarily consist of HSN and Cornerstone, the businesses that formerly comprised IAC's Retailing segment. HSN consists of the HSN television network and *HSN.com*, and Cornerstone includes the Cornerstone Brands portfolio of leading print catalogs and related websites, as well as a limited number of retail stores. HSNi will not include the equity investment in Jupiter Shop Channel, the investment in Arcandor AG and the related contingent value right. The businesses to be operated by HSNi following the spin-off are referred to herein as the "HSNi Businesses." HSNi will also include the entities described below in "Discontinued Operations."

**Basis of Presentation**

The historical combined financial statements of HSNi and its subsidiaries reflect the contribution or other transfer to HSNi of all of the subsidiaries and assets and the assumption by HSNi of all of the liabilities relating to the HSNi Businesses in connection with the spin-off and the allocation to HSNi of certain IAC corporate expenses relating to the HSNi Businesses. Accordingly, the historical combined financial statements of HSNi reflect the historical financial position, results of operations and cash flows of the HSNi Businesses since their respective dates of acquisition by IAC, based on the historical consolidated financial statements and accounting records of IAC and using the historical results of operations and historical bases of the assets and liabilities of the HSNi Businesses with the exception of accounting for income taxes. For purposes of these financial statements, income taxes have been computed for HSNi on an as if stand-alone, separate tax return basis. These financial statements are prepared on a combined, rather than a consolidated, basis because they exclude certain investments and assets that were owned, either directly or indirectly, by legal entities that comprise the HSNi Businesses. The ownership of these investments and assets will be retained by IAC after the spin-off. These combined financial statements present IAC's and its subsidiaries net investment in the HSNi Businesses as invested equity in lieu of shareholders' equity. Intercompany transactions and accounts have been eliminated.

In the opinion of HSNi's management, the assumptions underlying the historical combined financial statements of HSNi are reasonable. However, this financial information does not necessarily reflect what the historical financial position, results of operations and cash flows of HSNi would have been had HSNi been a stand-alone company during the periods presented.

**Company Overview**

HSNi markets and sells a wide range of third party and private label merchandise directly to consumers through (i) television home shopping programming broadcast on the HSN television network, (ii) catalogs, which consist primarily of the Cornerstone Brands portfolio of leading print catalogs which includes Frontgate, Garnet Hill, Ballard Designs, Improvements, Smith & Noble, The Territory Ahead and TravelSmith and (iii) websites, which consist primarily of *HSN.com* and branded websites operated by Cornerstone Brands. HSNi's television home shopping business and related

## HSN, INC. AND SUBSIDIARIES

### NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

#### NOTE 1—ORGANIZATION AND BASIS OF PRESENTATION (Continued)

internet commerce is referred to herein as "HSN" and all catalog operations, including related internet commerce, are collectively referred to herein as "Cornerstone."

HSN offerings primarily consist of jewelry, apparel & accessories, health & beauty and home & other. Merchandise offered by Cornerstone primarily consists of home furnishings (including indoor/outdoor furniture, window treatments and other home related goods) and apparel & accessories.

#### Discontinued Operations

Discontinued operations consist of HSNi Businesses that engaged in television retailing and other forms of television-based commerce in Europe, primarily in Germany and the United Kingdom. Discontinued operations in Germany consist of EUVÍA, a group of companies that were primarily engaged in television game-based entertainment and commerce; and Home Shopping Europe GmbH & Co. KG, and its affiliated station HSE24 ("HSE"), a television and internet retailer. Discontinued operations in the United Kingdom consist of Quiz TV Limited a television game-based entertainment network and iBuy, a television and internet auction formatted retailer.

During the second quarter of 2005, HSNi sold its 48.6% ownership interest in EUVÍA. During the second quarter of 2006, Quiz TV Limited ceased operations and during the fourth quarter of 2006, iBuy was classified as held for sale. Additionally, in the second quarter of 2007, both iBuy's assets and HSNi's German TV and internet retailer, HSE, were sold. Accordingly, discontinued operations in the accompanying combined statements of operations and cash flows include EUVÍA and HSE through June 2, 2005 and June 19, 2007, respectively. The assets of HSE are included in "Assets held for sale" and the liabilities of HSE are included in "Liabilities held for sale" in the accompanying combined balance sheet at December 31, 2006. Quiz TV Limited and iBuy are presented as discontinued operations in the accompanying combined balance sheets and combined statements of operations and cash flows for all periods presented. See Note 10 for a further description of discontinued operations.

#### NOTE 2—SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

##### Revenue Recognition

Revenue primarily consists of merchandise sales and is reduced by incentive discounts and sales returns to arrive at net sales. In accordance with Staff Accounting Bulletin 104, revenue is recorded when delivery to the customer has occurred. Delivery is considered to have occurred when the customer takes title and assumes the risks and rewards of ownership, which is generally on the date of shipment. HSNi's sales policy allows customers to return merchandise for a full refund or exchange, subject in some cases to restocking fees and exceptions for certain merchandise. Allowances for returned merchandise and other adjustments (including reimbursed shipping and handling costs) are provided based upon past experience. HSNi believes that actual returns of product sales have not materially varied from estimates in any of the periods presented. HSNi's estimated return rates were 18.4% in 2007, 17.7% in 2006 and 16.5% in 2005. Sales taxes collected are not included in revenue.

##### Shipping and Handling Fees and Costs

Shipping and handling fees billed to customers are recorded as revenue. The costs associated with shipping goods to customers are recorded as cost of sales.



HSN, INC. AND SUBSIDIARIES

NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

NOTE 2—SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

**Cash and Cash Equivalents**

Cash and cash equivalents include cash and money market instruments.

**Accounts Receivable**

Accounts receivable are stated at amounts due from customers, net of an allowance for doubtful accounts. HSN provides extended payment terms to its customers known as Flexpay. Flexpay is offered on certain products sold by HSN. Revenue is recorded when delivery to the customer has occurred, at which time HSN collects the first payment, sales tax and all shipping and handling fees. Subsequent collections are due from customers in 30-day increments payable automatically by credit or debit card. HSN offers Flexpay programs ranging from two to six interest-free payments. Flexpay receivables consist of outstanding balances owed by customers, less a reserve for uncollectible balances. The balance of Flexpay receivables, net of allowance, at December 31, 2007 and 2006 was \$149.9 million and \$119.1 million, respectively. Flexpay sales were 54%, 48% and 48% of total HSN's net merchandise sales for the years ended December 31, 2007, 2006 and 2005, respectively.

Accounts receivable outstanding longer than the contractual payment terms are considered past due. HSNi determines its allowance by considering a number of factors, including the length of time accounts receivable are past due, HSNi's previous loss history and the condition of the general economy. HSNi writes off accounts receivable when they become uncollectible.

**Inventories**

Inventories, which primarily consist of finished goods, are valued at the lower of cost or market, with the cost being determined based upon the first-in, first-out method. Cost includes inbound freight and duties and, in the case of HSN, certain allocable general and administrative costs, including certain warehouse costs. Inventories include approximately \$4.9 million and \$5.0 million of these allocable general and administrative overhead costs at December 31, 2007 and 2006, respectively, and approximately \$17.8 million, \$19.8 million and \$19.4 million of such costs were included in "General and administrative expense" in the accompanying combined statements of operations for the years ended December 31, 2007, 2006 and 2005, respectively. Market is determined on the basis of net realizable value, giving consideration to obsolescence and other factors.

**Property and Equipment**

Property and equipment, including significant improvements, are recorded at cost. Repairs and maintenance and any gains or losses on dispositions are included in operations.

Depreciation is recorded on a straight-line basis to allocate the cost of depreciable assets to operations over their estimated service lives.

Asset Category	Depreciation Period
Computer equipment and capitalized software	3 to 6 Years
Buildings and leasehold improvements	3 to 39 Years
Furniture and other equipment	3 to 10 Years

In accordance with American Institute of Certified Public Accountants' Statement of Position No. 98-1, "Accounting for the Costs of Computer Software Developed or Obtained for Internal Use," HSNi capitalizes certain qualified costs incurred in connection with the development of internal use

## HSN, INC. AND SUBSIDIARIES

### NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

#### NOTE 2—SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

software. Capitalization of internal use software costs begins when the preliminary project stage is completed, management with the relevant authority authorizes and commits to the funding of the software project, and it is probable that the project will be completed and the software will be used to perform the function intended. Capitalized internal use software is depreciated on a straight-line basis over the estimated useful life of the software, not to exceed three years. Capitalized internal software costs, net of accumulated depreciation, totaled \$24.1 million and \$16.6 million at December 31, 2007 and 2006, respectively, and are included in "Property and equipment, net" in the accompanying combined balance sheets.

#### **Goodwill and Indefinite-Lived Intangible Assets**

In accordance with Statement of Financial Accounting Standards ("SFAS") No. 142, "Goodwill and Other Intangible Assets" ("SFAS No. 142"), goodwill acquired in business combinations is assigned to the reporting units that are expected to benefit from the combination as of the acquisition date.

Goodwill impairment is determined using a two-step process. The first step of the process is to compare the fair value of a reporting unit with its carrying amount, including goodwill. In performing the first step, HSNi determines the fair value of its reporting units by using a discounted cash flow ("DCF") analysis. Determining fair value using a DCF analysis requires the exercise of significant judgments, including judgments about appropriate discount rates, perpetual growth rates and the amount and timing of expected future cash flows. If the fair value of a reporting unit exceeds its carrying amount, goodwill of the reporting unit is not impaired and the second step of the impairment test is not required. If the carrying amount of a reporting unit exceeds its fair value, the second step of the goodwill impairment test is required to be performed to measure the amount of impairment, if any. The second step of the goodwill impairment test compares the implied fair value of the reporting unit's goodwill with the carrying amount of that goodwill. The implied fair value of goodwill is determined in the same manner as the amount of goodwill recognized in a business combination. If the carrying amount of the reporting unit's goodwill exceeds the implied fair value of that goodwill, an impairment loss is recognized in an amount equal to that excess.

The impairment test for indefinite-lived intangible assets involves a comparison of the estimated fair value of the intangible asset with its carrying value. If the carrying value of the indefinite-lived intangible asset exceeds its fair value, an impairment loss is recognized in an amount equal to that excess. The estimates of fair value of indefinite-lived intangible assets are determined using a DCF valuation analysis that employs a "relief from royalty" methodology in estimating the fair value of its trade names and trademarks. Significant judgments inherent in this analysis include the determination of royalty rates, discount rates and the terminal growth rates.

Goodwill and indefinite-lived intangible assets, primarily trade names and trademarks, are tested annually for impairment as of October 1 or earlier upon the occurrence of certain events or substantive changes in circumstances. HSNi's 2007 annual impairment assessment did not identify an impairment. HSNi's reporting units are currently operating in dynamic and challenged industry segments. To illustrate the magnitude of potential impairment charges relative to future changes in estimated fair value, had the estimated fair value of HSNi's reporting units and their respective indefinite-lived intangible assets been hypothetically lower by 10% as of October 1, 2007 the aggregate book value of goodwill and indefinite-lived intangible assets would have exceeded fair value by approximately \$166.0 million at HSN and \$74.0 million at Cornerstone. Had the estimated fair values of HSNi's reporting units and their respective indefinite-lived intangible assets been hypothetically lower by 20%

## HSN, INC. AND SUBSIDIARIES

### NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

#### NOTE 2—SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

as of October 1, 2007, the book value of goodwill and indefinite lived-intangible assets would have exceeded fair value by approximately \$441.0 million at HSN and \$156.0 million at Cornerstone.

#### **Long-Lived Assets and Intangible Assets with Definite Lives**

In accordance with SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets" ("SFAS No. 144"), long-lived assets, including property and equipment and intangible assets with definite lives, are tested for recoverability whenever events or changes in circumstances indicate that their carrying amount may not be recoverable. The carrying amount of a long-lived asset is not recoverable if it exceeds the sum of the undiscounted cash flows expected to result from the use and eventual disposition of the asset. If the carrying amount is deemed to not be recoverable, an impairment loss is recorded as the amount by which the carrying amount of the long-lived asset exceeds its fair value. Amortization of definite lived intangible assets is recorded on a straight-line basis over their estimated lives.

#### **Cable and Satellite Distribution Fees**

Cable and satellite distribution fees relate to fees paid in connection with annual or multi-year cable and satellite contracts for carriage of HSN's programming. Fees that are paid upfront are amortized on a straight-line basis over the terms of the respective contracts. Unpaid fees are accrued.

Cable and satellite distribution fees and amortization totaled \$91.8 million, \$88.7 million and \$70.4 million for the years ended December 31, 2007, 2006 and 2005, respectively, and are included in "Selling and marketing expense" in the accompanying combined statements of operations. Prepaid cable and satellite distribution fees were \$5.7 million and \$2.4 million at December 31, 2007 and 2006, respectively, and are included in "Prepaid expenses and other current assets" in the accompanying combined balance sheets. The long-term portions of upfront payments relating to multi-year cable and satellite contracts were \$11.6 million and \$16.2 million at December 31, 2007 and 2006, respectively, and are included in "Other non-current assets" in the accompanying combined balance sheets. Accrued cable and satellite distribution fees were \$32.6 million and \$21.0 million at December 31, 2007 and 2006, respectively, and are included in "Accrued expenses and other current liabilities" in the accompanying combined balance sheets.

#### **Advertising**

Advertising costs principally represent offline costs, including catalog production and distribution costs, and online advertising costs. Advertising costs are expensed in the period incurred, except for Cornerstone's direct costs of producing and distributing its catalogs, which are capitalized. These capitalized costs are amortized over the expected future revenue stream, which is generally three months from the date catalogs are mailed. Such capitalized costs totaled \$26.8 million and \$27.8 million at of December 31, 2007 and 2006, respectively, and are included in "Prepaid expenses and other current assets" in the accompanying combined balance sheets. Of these amounts, \$18.6 million and \$19.4 million at December 31, 2007 and 2006, respectively, related to catalogs that had not yet been mailed. Advertising expense was \$282.5 million, \$278.1 million and \$224.3 million for the years ended December 31, 2007, 2006 and 2005, respectively.

## HSN, INC. AND SUBSIDIARIES

### NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

#### NOTE 2—SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

##### Amortization of Non-Cash Marketing

Amortization of non-cash marketing consists of non-cash marketing and advertising provided to HSNi by IAC. The non-cash marketing was secured by IAC from Universal Television as part of the transaction pursuant to which Vivendi Universal Entertainment LLLP ("VUE") was created, and the subsequent transaction by which IAC sold its partnership interests in VUE. HSNi used the non-cash advertising for television advertising on various NBC Universal network and cable channels without any cash cost.

##### Income Taxes

HSNi accounts for income taxes under the liability method, and deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates in effect for the year in which those temporary differences are expected to be recovered or settled. A valuation allowance is provided on deferred tax assets if it is determined that it is more likely than not that the deferred tax asset will not be realized. HSNi records interest on potential tax contingencies as a component of income tax expense and records interest net of any applicable related income tax benefit.

Effective January 1, 2007, HSNi adopted the provisions of Financial Accounting Standards Board ("FASB") Interpretation No. 48, "Accounting for Uncertainty in Income Taxes—an interpretation of FASB Statement No. 109" ("FIN 48"). As a result of the adoption of FIN 48, HSNi recognizes liabilities for uncertain tax positions based on the two-step process prescribed by the interpretation. The first step is to evaluate the tax position for recognition by determining if the weight of available evidence indicates it is more likely than not that the position will be sustained on audit, including resolution of related appeals or litigation processes, if any. The second step is to measure the tax benefit as the largest amount which is more than 50% likely of being realized upon ultimate settlement.

##### Foreign Currency Translation and Transaction Gains and Losses

The financial position and operating results of substantially all foreign operations are consolidated using the local currency as the functional currency. Local currency assets and liabilities are translated at the rates of exchange as of the balance sheet date, and local currency revenue and expenses are translated at average rates of exchange during the period. Resulting translation gains or losses are included as a component of accumulated other comprehensive income (loss), a separate component of invested equity. Transaction gains and losses arising from transactions denominated in a currency other than the functional currency of the entity are included in the combined statements of operations.

Foreign currency transaction gains and losses arose from entities that are presented in these statements as discontinued operations and, accordingly, are included in "Income from discontinued operations, net of tax" in the accompanying combined statements of operations.

##### Stock-Based Compensation

Effective January 1, 2006, HSNi adopted the provisions of SFAS No. 123 (revised 2004), "Share-Based Payment" ("SFAS 123R"), using the modified prospective transition method and therefore has not restated results for prior periods. See Note 4 for a further description of the impact of the adoption of SFAS 123R and Staff Accounting Bulletin No. 107 ("SAB 107").

## HSN, INC. AND SUBSIDIARIES

### NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

#### NOTE 2—SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

##### Accounting Estimates

HSNi's management is required to make certain estimates and assumptions during the preparation of the combined financial statements in accordance with U.S. generally accepted accounting principles. These estimates and assumptions impact the reported amount of assets and liabilities and disclosures of contingent assets and liabilities as of the date of the combined financial statements. They also impact the reported amount of net earnings during any period. Actual results could differ from those estimates.

Significant estimates underlying the accompanying combined financial statements include: the determination of the lower of cost or market adjustment for inventory; sales returns and other revenue allowances; the allowance for doubtful accounts; the recoverability of long-lived assets; the recovery of goodwill and intangible assets; the determination of deferred income taxes, including related valuation allowances; and assumptions related to the determination of stock-based compensation.

##### Certain Risks and Concentrations

HSNi's business is subject to certain risks and concentrations including dependence on third-party technology providers, exposure to risks associated with online commerce security and credit card fraud. HSNi also depends on third-party service providers for processing certain fulfillment services.

##### Recent Accounting Pronouncements

In December 2007, the FASB issued SFAS No. 160, "Noncontrolling Interests in Consolidated Financial Statements—an amendment of Accounting Research Bulletin No. 51" ("SFAS No. 160"). SFAS No. 160 establishes accounting and reporting standards for ownership interests in subsidiaries held by parties other than the parent, the amount of consolidated net income attributable to the parent and to the noncontrolling interest, changes in a parent's ownership interest and the valuation of retained noncontrolling equity investments when a subsidiary is deconsolidated. The Statement also establishes reporting requirements that provide sufficient disclosures that clearly identify and distinguish between the interests of the parent and the interests of the noncontrolling owners. SFAS No. 160 is effective for fiscal years beginning after December 15, 2008. SFAS No. 160 will be applied prospectively, except as it relates to disclosures, for which the effects will be applied retrospectively for all periods presented. Early adoption is not permitted. HSNi is currently assessing the impact of SFAS No. 160 on its combined financial position, results of operations and cash flows.

In December 2007, the FASB issued SFAS No. 141 (revised 2007), "Business Combinations" ("SFAS No. 141R"), which replaces FASB Statement No. 141. SFAS No. 141R establishes principles and requirements for how an acquirer recognizes and measures in its financial statements the identifiable assets acquired, the liabilities assumed, any noncontrolling interest in the acquiree and the goodwill acquired. The Statement also establishes disclosure requirements that will enable users to evaluate the nature and financial effects of the business combination. SFAS No. 141R applies prospectively to business combinations in fiscal years beginning after December 15, 2008. Early adoption is not permitted. HSNi is currently assessing the potential impact, if any, of the adoption of SFAS No. 141R on its combined financial position, results of operations and cash flows.

HSN, INC. AND SUBSIDIARIES

NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

NOTE 3—BUSINESS ACQUISITIONS

On April 1, 2005, HSNi completed its acquisition of Cornerstone Brands, a portfolio of leading print catalogs and online retailing sites that sell home products and leisure and casual apparel, for approximately \$715 million, principally in cash. The acquisition was funded by IAC and such funding has been recorded as a transfer from IAC within the statement of invested equity. Cornerstone Brands is included in HSNi's Cornerstone reporting segment. HSNi performed valuations of identifiable intangible assets acquired. This valuation identified \$309.1 million of intangible assets other than goodwill. The goodwill recognized amounted to \$456.4 million. The trade names acquired were identified as indefinite-lived intangible assets and \$269.4 million was allocated to these assets. Intangibles with definite lives included customer lists (\$31.4 million), existing technology (\$4.1 million), vendor and supply agreements (\$3.0 million) and intellectual property (\$1.2 million) and are being amortized over a weighted-average period of 4.5 years. None of the amount allocated to goodwill is tax deductible. The purchase price paid for Cornerstone Brands was based on historical as well as expected performance metrics. HSNi viewed Cornerstone Brands' revenue, operating income, Operating Income Before Amortization, net income and cash flow as its most important valuation metrics. HSNi agreed to a purchase price that resulted in recognition of a significant amount of goodwill for a number of reasons including: Cornerstone Brands' market position and brands; Cornerstone Brands' business model which complements the business model of HSNi; growth opportunities in the markets in which Cornerstone Brands operates; and Cornerstone Brands' distinctly unique, proprietary and exclusive product lines which should enable HSNi to grow. As a result, a significant portion of the purchase price was based on the expected financial performance of Cornerstone Brands, and not the asset value on the books of Cornerstone Brands at the time of the acquisition.

Pro Forma Results

The following unaudited pro forma condensed combined financial information for the year ended December 31, 2005, is presented to show the results of HSNi to give effect to the acquisition of Cornerstone Brands completed on April 1, 2005 as if the transaction had occurred on January 1, 2005. The pro forma results include certain adjustments, including increased amortization related to intangible assets and compensation expense, and are not necessarily indicative of what the results would have been had the transaction actually occurred on the aforementioned date.

	Year Ended December 31, 2005	
	(In thousands)	
Revenue	\$	2,852,550
Net income		221,695

NOTE 4—SFAS 123R AND STOCK-BASED COMPENSATION

The equity awards described below principally relate to awards to HSNi employees that were granted under various IAC stock and annual incentive plans.

Effective January 1, 2006, HSNi adopted SFAS 123R using the modified prospective transition method and has applied the classification provisions of SAB 107 regarding the SEC's interpretation of SFAS 123R and the valuation of share-based payments for public companies in its adoption of SFAS 123R.

The adoption of SFAS 123R did not impact the amount of stock-based compensation expense recorded in the accompanying combined statements of operations as HSNi had previously adopted the

HSN, INC. AND SUBSIDIARIES

NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

NOTE 4—SFAS 123R AND STOCK-BASED COMPENSATION (Continued)

expense recognition provisions of SFAS No. 123, "Accounting for Stock-Based Compensation" ("SFAS No. 123"). On August 9, 2005, HSNi began recognizing expense for all stock-based compensation instruments granted prior to January 1, 2003 due to the modification of all such instruments in connection with the Expedia spin-off.

Prior to the adoption of SFAS 123R, the entire tax benefit from stock-based compensation was reported as a component of operating cash flows. Upon the adoption of SFAS 123R, tax benefits resulting from tax deductions in excess of the stock-based compensation expense recognized in the combined statement of operations are reported as a component of financing cash flows. For the years ended December 31, 2007 and 2006, excess tax benefits from stock-based compensation of \$2.4 million and \$2.3 million, respectively, are included as a component of financing cash flows. For the year ended December 31, 2005, excess tax benefits from stock-based compensation of \$49.9 million is included as a component of operating cash flows.

Non-cash stock-based compensation expense related to equity awards is included in the following line items in the accompanying combined statements of operations for the years ended December 31, 2007, 2006 and 2005 (in thousands):

	Years Ended December 31,		
	2007	2006	2005
Cost of sales	\$ 937	\$ 755	\$ 524
Selling and marketing expense	1,025	1,117	1,143
General and administrative expense	10,189	9,867	12,057
Production and programming expense	9	7	1
Non-cash stock-based compensation expense before income taxes	12,160	11,746	13,725
Income tax benefit	(4,434)	(4,017)	(4,322)
Non-cash stock-based compensation expense after income taxes	\$ 7,726	\$ 7,729	\$ 9,403

The form of awards granted to HSNi employees are principally restricted stock units ("RSUs") and performance stock units ("PSUs"). RSUs and PSUs are awards in the form of phantom shares or units, denominated in a hypothetical equivalent number of shares of IAC common stock and with the value of each award equal to the fair value of IAC common stock at the date of grant. RSUs may be settled in cash, stock or both, as determined by IAC's Compensation Committee at the time of grant. All outstanding award agreements provide for settlement, upon vesting, in stock for U.S. employees and in cash for non-U.S. employees. Each RSU, PSU and restricted stock grant is subject to service-based vesting, where a specific period of continued employment must pass before an award vests, and certain grants also include performance-based vesting, where certain performance targets set at the time of grant must be achieved before an award vests. HSNi recognizes expense for all RSU, PSU and restricted stock for which vesting is considered probable. For RSUs and restricted stock grants to U.S. employees, the accounting charge is measured at the grant date as the fair value of IAC common stock and expensed ratably as non-cash compensation over the vesting term. For PSU grants to U.S. employees, the expense is measured at the grant date as the fair value of IAC common stock and expensed as non-cash compensation when the performance targets are considered probable of being achieved. The expense associated with RSU and PSU awards to non-U.S. employees is initially measured at fair value at the grant date and expensed ratably over the vesting term, subject to mark-to-market adjustments for changes in the price of IAC common stock, as compensation expense

## HSN, INC. AND SUBSIDIARIES

### NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

#### NOTE 4—SFAS 123R AND STOCK-BASED COMPENSATION (Continued)

within general and administrative expense. The expense related to awards to international employees totaled \$0.1 million, \$0.2 million and \$0.1 million for the years ended December 31, 2007, 2006 and 2005, respectively. Cash payments related to awards to international employees totaled \$0.2 million, \$0.2 million and \$0.1 million for the years ended December 31, 2007, 2006 and 2005, respectively.

The amount of stock-based compensation expense recognized in the combined statement of operations is reduced by estimated forfeitures, as the amount recorded is based on awards ultimately expected to vest. The forfeiture rate is estimated at the grant date based on historical experience and revised, if necessary, in subsequent periods if the actual forfeiture rate differs from the estimated rate.

In connection with the Expedia spin-off, all of HSNi's outstanding share-based compensation were modified. Accordingly, on August 9, 2005, HSNi recorded a pre-tax modification charge of \$3.5 million related to the treatment of vested stock options. In conjunction with the Expedia spin-off and the adoption of SFAS 123R, HSNi conducted an assessment of certain assumptions used in determining the expense related to stock-based compensation which was completed in the third quarter of 2005. The cumulative effect of a change in HSNi's estimate related to the number of stock-based awards that were expected to vest resulted in a reduction in stock-based compensation expense of \$0.7 million. The after-tax effect of this change in estimate on net income was \$0.4 million.

As of December 31, 2007, there was approximately \$23.0 million of unrecognized compensation cost, net of estimated forfeitures, related to all equity-based awards. This cost is expected to be recognized over a weighted-average period of approximately 2.7 years. At December 31, 2007 there were less than 0.1 million awards outstanding to non-U.S. employees.

In connection with the acquisition of Cornerstone Brands by IAC in 2005 certain members of Cornerstone's Brands management were granted restricted common equity in Cornerstone Brands. These awards were granted on April 1, 2005 and were initially measured at fair value, which is being amortized to expense over the vesting period. These awards vest ratably over four years, or earlier based upon the occurrence of certain prescribed events. The awards vest in non-voting restricted common shares of Cornerstone Brands.

These shares are subject to a put right by the holders, which is not exercisable until the first quarter of 2010 and annually thereafter, and a call right by IAC, which is not exercisable until the first quarter of 2012 and annually thereafter. The value of these shares upon exercise of the put or call is equal to their fair market value, determined by negotiation or arbitration, reduced by the accreted value of the preferred interest that was taken by IAC upon the purchase of Cornerstone Brands. The initial value of the preferred interest was equal to the acquisition price of Cornerstone Brands. The preferred interest accretes value at a 15% annual rate. Upon exercise of the put or call the consideration is payable in IAC shares or cash or a combination thereof at IAC's option. As of December 31, 2007, these awards are significantly out of the money and are not expected to result in any value. Prior to the separation, this put and call arrangement will be modified so that the consideration payable in IAC's shares will be replaced with HSNi shares.

The unrecognized compensation cost related to these equity awards is \$0.3 million at December 31, 2007.



HSN, INC. AND SUBSIDIARIES

NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

NOTE 5—GOODWILL AND INTANGIBLE ASSETS

The balance of goodwill and intangible assets, net is as follows (in thousands):

	December 31,	
	2007	2006
Goodwill	\$ 2,884,389	\$ 2,883,769
Intangible assets with indefinite lives	554,848	556,348
Intangible assets with definite lives, net	16,814	27,995
Total goodwill and intangible assets, net	\$ 3,456,051	\$ 3,468,112

Intangible assets with indefinite lives relate principally to trade names and trademarks acquired in various acquisitions. At December 31, 2007, intangible assets with definite lives relate to the following (in thousands):

	Cost	Accumulated Amortization	Net	Weighted-Average Amortization Life (Years)
Distribution agreements	\$ 159,268	\$ (159,268)	\$ —	4.1
Customer lists	36,773	(22,468)	14,305	4.7
Merchandise agreements	33,257	(33,257)	—	4.7
Technology	28,007	(27,665)	342	3.9
Other	7,409	(5,242)	2,167	8.5
Total	\$ 264,714	\$ (247,900)	\$ 16,814	

At December 31, 2006, intangible assets with definite lives relate to the following (in thousands):

	Cost	Accumulated Amortization	Net	Weighted-Average Amortization Life (Years)
Distribution agreements	\$ 159,268	\$ (159,268)	\$ —	4.1
Customer lists	36,773	(16,013)	20,760	4.7
Merchandise agreements	33,257	(30,865)	2,392	4.7
Technology	28,007	(26,298)	1,709	3.9
Other	7,409	(4,275)	3,134	8.5
Total	\$ 264,714	\$ (236,719)	\$ 27,995	

Amortization of intangible assets with definite lives is computed on a straight-line basis and, based on December 31, 2007 balances, such amortization for the next four years is estimated to be as follows (in thousands):

Years Ending December 31,

2008	\$ 7,463
2009	6,844
2010	2,132
2011	375
	\$ 16,814

HSN, INC. AND SUBSIDIARIES

NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

NOTE 5—GOODWILL AND INTANGIBLE ASSETS (Continued)

The following table presents the balance of goodwill by segment, including the changes in carrying amount of goodwill, for the year ended December 31, 2007 (in thousands):

	Balance as of January 1, 2007	Additions	(Deductions)	Balance as of December 31, 2007
HSN	\$ 2,390,330	\$ —	\$ (133)	\$ 2,390,197
Cornerstone	493,439	865	(112)	494,192
<b>Total</b>	<b>\$ 2,883,769</b>	<b>\$ 865</b>	<b>\$ (245)</b>	<b>\$ 2,884,389</b>

The following table presents the balance of goodwill by segment, including the changes in carrying amount of goodwill, for the year ended December 31, 2006 (in thousands):

	Balance as of January 1, 2006	Additions	(Deductions)	Balance as of December 31, 2006
HSN	\$ 2,390,326	\$ 4	\$ —	\$ 2,390,330
Cornerstone	499,908	—	(6,469)	493,439
<b>Total</b>	<b>\$ 2,890,234</b>	<b>\$ 4</b>	<b>\$ (6,469)</b>	<b>\$ 2,883,769</b>

Deductions principally relate to a reduction in acquired tax liabilities and the income tax benefit realized pursuant to the exercise of stock options assumed in a business acquisition that were vested at the transaction date and are treated as a reduction in goodwill when the income tax deductions are realized.

NOTE 6—PROPERTY AND EQUIPMENT

The balance of property and equipment, net is as follows (in thousands):

	December 31,	
	2007	2006
Capitalized software	\$ 169,709	\$ 159,170
Computer and broadcast equipment	81,821	73,600
Buildings and leasehold improvements	72,815	65,098
Furniture and other equipment	58,058	51,487
Projects in progress	19,572	18,773
Land	11,778	11,617
	413,753	379,745
Less: accumulated depreciation and amortization	(257,948)	(236,536)
<b>Total property and equipment, net</b>	<b>\$ 155,805</b>	<b>\$ 143,209</b>

HSN, INC. AND SUBSIDIARIES

NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

NOTE 7—ACCRUED EXPENSES AND OTHER CURRENT LIABILITIES

Accrued expenses and other current liabilities consist of the following (in thousands):

	December 31,	
	2007	2006
Accrued sales returns	\$ 37,596	\$ 35,942
Accrued cable and satellite distribution fees	32,637	20,968
Accrued fulfillment expenses	25,624	21,945
Accrued compensation and benefits	15,502	17,544
Other accrued expenses and current liabilities	75,142	74,039
Total accrued expenses and other current liabilities	\$ 186,501	\$ 170,438

NOTE 8—INCOME TAXES

HSNi is a member of IAC's consolidated federal and state tax returns. In all periods presented, current and deferred tax expense has been computed for HSNi on a separate return basis. HSNi's share of IAC's consolidated federal and state tax return liabilities have been reflected within cash flows from operating activities in the accompanying combined statements of cash flows.

The components of the provision for income taxes attributable to continuing operations are as follows (in thousands):

	Years Ended December 31,		
	2007	2006	2005
<b>Current income tax provision:</b>			
Federal	\$ 68,969	\$ 85,370	\$ 93,678
State	7,388	9,122	11,577
Current income tax provision	76,357	94,492	105,255
<b>Deferred income tax (benefit) provision:</b>			
Federal	(10,683)	(13,423)	(24,844)
State	(1,120)	(1,859)	(14,101)
Deferred income tax (benefit)	(11,803)	(15,282)	(38,945)
Income tax provision	\$ 64,554	\$ 79,210	\$ 66,310

Current income taxes payable has been reduced by \$2.4 million, \$2.3 million and \$49.9 million for the years ended December 31, 2007, 2006 and 2005, respectively, for tax deductions attributable to stock-based compensation. The related income tax benefits of this stock-based compensation were recorded as amounts charged or credited to invested capital or a reduction in goodwill.

The tax effects of cumulative temporary differences that give rise to significant portions of the deferred tax assets and deferred tax liabilities at December 31, 2007 and 2006 are presented below (in

HSN, INC. AND SUBSIDIARIES

NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

NOTE 8—INCOME TAXES (Continued)

thousands). The valuation allowance is related to items for which it is more likely than not that the tax benefit will not be realized.

	December 31,	
	2007	2006
<b>Deferred tax assets:</b>		
Provision for accrued expenses	\$ 35,631	\$ 25,838
Inventories	14,916	10,628
Investments in nonconsolidated subsidiaries	6,665	7,224
Stock-based compensation	5,451	4,953
Other	2,997	821
Total deferred tax assets	65,660	49,464
Less valuation allowance	(6,222)	(6,222)
Net deferred tax assets	59,438	43,242
<b>Deferred tax liabilities:</b>		
Intangible and other assets	(840,938)	(844,042)
Prepaid expenses	(10,805)	(9,276)
Property and equipment	(3,058)	(3,631)
Total deferred tax liabilities	(854,801)	(856,949)
Net deferred tax liability	\$ (795,363)	\$ (813,707)

At December 31, 2007, HSNi did not have any significant net operating loss carryforwards. At December 31, 2007, HSNi had a valuation allowance of approximately \$6.2 million primarily related to unrealized capital losses for which it is more likely than not that the tax benefit will not be realized. There was no change in the valuation allowance for the year ended December 31, 2007.

A reconciliation of the income tax provision to the amounts computed by applying the statutory federal income tax rate to earnings from continuing operations before income taxes and minority interest is shown as follows (in thousands):

	Years Ended December 31,		
	2007	2006	2005
Income tax provision at the federal statutory rate of 35%	\$ 59,425	\$ 74,460	\$ 67,684
State income taxes, net of effect of federal tax benefit	4,182	4,721	6,031
Change in state effective tax rate	—	—	(7,672)
Other, net	947	29	267
Income tax provision	\$ 64,554	\$ 79,210	\$ 66,310

HSNi adopted the provisions of FIN 48 effective January 1, 2007. FIN 48 clarifies the accounting for income taxes by prescribing the minimum recognition threshold a tax position is required to meet before being recognized in the financial statements. FIN 48 provides guidance on derecognition, classification, interest and penalties, accounting in interim periods, disclosure and transition. The cumulative effect of the adoption resulted in a decrease of \$0.2 million to invested capital. A

HSN, INC. AND SUBSIDIARIES

NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

NOTE 8—INCOME TAXES (Continued)

reconciliation of the beginning and ending amount of unrecognized tax benefits, excluding interest, is as follows (in thousands):

Balance at January 1, 2007	\$	4,316
Additions based on tax positions related to the current year		2,298
Additions for tax positions of prior years		2,330
Reductions for tax positions of prior years		—
Settlements		—
		<hr/>
Balance at December 31, 2007	\$	8,944
		<hr/>

As of January 1, 2007 and December 31, 2007, the unrecognized tax benefits, including interest, were \$5.2 million and \$11.7 million, respectively. Included in unrecognized tax benefits at December 31, 2007 is approximately \$8.8 million for tax positions included in IAC's consolidated tax return filings. Included within "Receivables from IAC and subsidiaries" in the accompanying combined balance sheet at December 31, 2007 is approximately \$11.6 million of unrecognized tax benefits and related interest that will remain a liability of IAC after the spin-off. Also included in unrecognized tax benefits at December 31, 2007 is approximately \$8.8 million for tax positions which the ultimate deductibility is highly certain but for which there is uncertainty about the timing of such deductibility.

HSNi recognizes interest and, if applicable, penalties related to unrecognized tax benefits in income tax expense. Included in income tax expense from continuing operations for the year ended December 31, 2007 is \$1.2 million, net of related deferred taxes of \$0.7 million, for interest on unrecognized tax benefits. At January 1, 2007 and December 31, 2007 HSNi has accrued \$0.9 million and \$2.8 million, respectively for the payment of interest. There are no material accruals for penalties.

By virtue of previously filed separate company and consolidated tax returns with IAC, HSNi is routinely under audit by federal, state, local and foreign authorities in the area of income tax. These audits include questioning the timing and the amount of deductions and the allocation of income among various tax jurisdictions. Income taxes payable include amounts considered sufficient to pay assessments that may result from examination of prior year returns; however, the amount paid upon resolution of issues raised may differ from the amount provided. Differences between the reserves for tax contingencies and the amounts owed by HSNi are recorded in the period they become known.

The Internal Revenue Service ("IRS") is currently examining the IAC consolidated tax returns for the years ended December 31, 2001 through 2003, which includes the operations of HSNi. The statute of limitations for these years has been extended to December 31, 2008. Various IAC consolidated tax returns filed with state, local and foreign jurisdictions are currently under examination, the most significant of which are Florida, New York state and New York City, for various tax years after December 31, 2001. These examinations are expected to be completed by late 2008.

HSNi believes that it is reasonably possible that its unrecognized tax benefits could decrease by approximately \$2.3 million within twelve months of the current reporting date due to the reversal of deductible temporary differences which will result in a corresponding increase in net deferred tax liabilities. An estimate of other changes in unrecognized tax benefits cannot be made, but are not expected to be significant.

HSN, INC. AND SUBSIDIARIES

NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

NOTE 9—SEGMENT INFORMATION

The overall concept that HSNi employs in determining its operating segments and related financial information is to present them in a manner consistent with how the chief operating decision maker and executive management view the businesses, how the businesses are organized as to segment management, and the focus of the businesses with regards to the types of products or services offered or the target market. HSNi has two operating segments, HSN and Cornerstone. Entities included in discontinued operations, as described in Note 1 and further in Note 10, are excluded from the below schedules except for the schedule of assets.

HSNi's primary metric is Operating Income Before Amortization, which is defined as operating income excluding, if applicable: (1) non-cash compensation expense and amortization of non-cash marketing, (2) amortization of intangibles and goodwill impairment, (3) pro forma adjustments for significant acquisitions and (4) one-time items. HSNi believes this measure is useful to investors because it represents the combined operating results from HSNi's segments, taking into account depreciation, which it believes is an ongoing cost of doing business, but excluding the effects of any other non-cash expenses. Operating Income Before Amortization has certain limitations in that it does not take into account the impact to HSNi's statement of operations of certain expenses, including non-cash compensation, amortization of non-cash marketing and acquisition-related accounting.

The following tables reconcile Operating Income Before Amortization to operating income for HSNi's reporting segments and to net income in total (in thousands):

	Year Ended December 31, 2007				
	Operating Income Before Amortization	Non-Cash Compensation Expense	Amortization of Non-Cash Marketing	Amortization of Intangibles	Operating Income
HSN	\$ 148,303	\$ (6,411)	\$ (4,442)	\$ (2,584)	\$ 134,866
Cornerstone	50,771	(5,749)	—	(10,097)	34,925
<b>Total</b>	<b>\$ 199,074</b>	<b>\$ (12,160)</b>	<b>\$ (4,442)</b>	<b>\$ (12,681)</b>	<b>169,791</b>
Other expense, net					(4)
Earnings from continuing operations before income taxes					169,787
Income tax provision					(64,554)
Earnings from continuing operations					105,233
Gain on sale of discontinued operations, net of tax					30,572
Income from discontinued operations, net of tax					28,999
Net income					\$ 164,804

HSN, INC. AND SUBSIDIARIES

NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

NOTE 9—SEGMENT INFORMATION (Continued)

	Year Ended December 31, 2006			
	Operating Income Before Amortization	Non-Cash Compensation Expense	Amortization of Intangibles	Operating Income
HSN	\$ 193,139	\$ (4,733)	\$ (24,502)	\$ 163,904
Cornerstone	66,027	(7,013)	(9,722)	49,292
<b>Total</b>	<b>\$ 259,166</b>	<b>\$ (11,746)</b>	<b>\$ (34,224)</b>	<b>213,196</b>
Other expense, net				(454)
Earnings from continuing operations before income taxes				212,742
Income tax provision				(79,210)
Earnings from continuing operations				133,532
Loss from discontinued operations, net of tax				(10,715)
<b>Net income</b>				<b>\$ 122,817</b>

	Year Ended December 31, 2005			
	Operating Income Before Amortization	Non-Cash Compensation Expense	Amortization of Intangibles	Operating Income
HSN	\$ 220,013	\$ (8,110)	\$ (52,109)	\$ 159,794
Cornerstone	48,308	(5,615)	(7,335)	35,358
<b>Total</b>	<b>\$ 268,321</b>	<b>\$ (13,725)</b>	<b>\$ (59,444)</b>	<b>195,152</b>
Other expense, net				(1,765)
Earnings from continuing operations before income taxes				193,387
Income tax provision				(66,310)
Earnings from continuing operations				127,077
Gain on sale of discontinued operations, net of tax				73,335
Income from discontinued operations, net of tax				22,809
<b>Net income</b>				<b>\$ 223,221</b>

	Years Ended December 31,		
	2007	2006	2005
	(In thousands)		
<b>Revenue:</b>			
HSN	\$ 1,892,582	\$ 1,884,650	\$ 1,887,661
Cornerstone	1,016,091	994,621	783,743
Inter-segment elimination	(431)	(1,317)	(453)
<b>Total</b>	<b>\$ 2,908,242</b>	<b>\$ 2,877,954</b>	<b>\$ 2,670,951</b>

HSNi does not report revenue from external customers for each product or each group of similar products as it is impracticable to do so.

HSN, INC. AND SUBSIDIARIES

NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

NOTE 9—SEGMENT INFORMATION (Continued)

	December 31,	
	2007	2006
	(In thousands)	
<b>Assets:</b>		
HSN	\$ 3,205,428	\$ 3,195,255
Cornerstone	1,011,923	981,976
Discontinued operations	3,280	280,936
<b>Total</b>	<b>\$ 4,220,631</b>	<b>\$ 4,458,167</b>

	Years Ended December 31,		
	2007	2006	2005
	(In thousands)		
<b>Depreciation and amortization of intangibles and cable and satellite distribution fees:</b>			
HSN	\$ 32,855	\$ 83,150	\$ 157,726
Cornerstone	19,055	17,912	13,066
<b>Total</b>	<b>\$ 51,910</b>	<b>\$ 101,062</b>	<b>\$ 170,792</b>

	Years Ended December 31,		
	2007	2006	2005
	(In thousands)		
<b>Capital expenditures:</b>			
HSN	\$ 34,288	\$ 23,415	\$ 25,998
Cornerstone	14,426	12,570	10,039
<b>Total</b>	<b>\$ 48,714</b>	<b>\$ 35,985</b>	<b>\$ 36,037</b>

HSNi maintains operations principally in the United States. Geographic information about the United States and international territories is presented below:

	Years Ended December 31,		
	2007	2006	2005
	(In thousands)		
<b>Revenue</b>			
United States	\$ 2,907,053	\$ 2,876,840	\$ 2,668,779
All other countries	1,189	1,114	2,172
<b>Total</b>	<b>\$ 2,908,242</b>	<b>\$ 2,877,954</b>	<b>\$ 2,670,951</b>

	December 31,	
	2007	2006
	(In thousands)	
<b>Long-lived assets (excluding goodwill and intangible assets):</b>		
United States	\$ 167,444	\$ 159,413
All other countries	—	—
<b>Total</b>	<b>\$ 167,444</b>	<b>\$ 159,413</b>



NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

NOTE 10—DISCONTINUED OPERATIONS

During the second quarter of 2006, Quiz TV Limited ceased operations. During the fourth quarter of 2006, iBuy was classified as held for sale and its assets were subsequently sold during the second quarter of 2007. Additionally, on June 19, 2007, HSNi sold HSE for approximately \$216.5 million, which resulted in a pre-tax gain of \$45.7 million and an after-tax gain of \$30.6 million. The pre-tax gain included \$22.8 million of foreign currency translation gains that were recognized into earnings at the time of the sale. In June 2005, HSNi sold its 48.6% ownership in EUVIA for approximately \$204.0 million, which resulted in a pre-tax gain of \$127.1 million and an after-tax gain of \$73.3 million. Accordingly, discontinued operations in the accompanying combined statements of operations include Quiz TV Limited, iBuy and HSE for all periods presented and EUVIA through June 2, 2005.

The net revenue and net income (loss), net of the effect of any minority interest, for the aforementioned discontinued operations for the applicable periods were as follows (in thousands):

	Year Ended December 31,		
	2007	2006	2005
Net revenue	\$ 192,701	\$ 387,281	\$ 408,871
Earnings (loss) before income taxes	\$ 28,786	\$ (9,511)	\$ 43,099
Income tax benefit (provision)	213	(1,204)	(14,362)
Minority interest in income of consolidated subsidiaries	—	—	(5,928)
Net income (loss)	\$ 28,999	\$ (10,715)	\$ 22,809

Income from discontinued operations, net of tax, in 2007 primarily includes the income of HSE. Loss from discontinued operations, net of tax, in 2006 primarily includes the losses of iBuy and Quiz TV Limited, partially offset by the income of HSE. Income from discontinued operations, net of tax, in 2005 primarily includes the income of HSE and EUVIA.

The assets and liabilities of HSE at December 31, 2006 have been classified in the accompanying combined balance sheet as "Assets held for sale" and "Liabilities held for sale." Such net assets held for sale consist of the following (in thousands):

	December 31, 2006
Current assets	\$ 81,834
Goodwill	122,721
Other non-current assets	22,325
Total assets held for sale	226,880
Current liabilities	(56,353)
Other long term liabilities	(7,992)
Total liabilities held for sale	(64,345)
Total net assets held for sale	\$ 162,535

Cash flows from discontinued operations are presented separately in the accompanying combined statements of cash flows. HSNi does not expect future cash flows associated with existing discontinued operations to be material.

**HSN, INC. AND SUBSIDIARIES**

**NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)**

**NOTE 11—DERIVATIVE INSTRUMENTS**

During the second quarter of 2003, one of HSNi's foreign subsidiaries entered into a five-year foreign exchange forward contract with a notional amount of \$38.6 million, which was used to hedge against the change in value of a liability denominated in a currency other than the subsidiary's functional currency. This derivative contract was designated as a cash flow hedge for accounting purposes and foreign exchange remeasurement gains and losses related to the contract and liability were recognized each period in the statement of operations and were offsetting. In addition, the remaining effective portion of the derivative gain or loss was recorded in other comprehensive income until the derivative liability was extinguished in June 2007 in connection with the sale of HSE. Subsequent to the sale of HSE, HSNi does not have any significant exposure to foreign currency risk and does not hold any derivative instruments at December 31, 2007.

**NOTE 12—COMMITMENTS**

HSNi leases satellite transponders, computers, warehouse and office space, equipment and services used in connection with its operations under various operating leases, many of which contain escalation clauses.

Future minimum payments under operating lease agreements are as follows (in thousands):

Years Ending December 31,

2008	\$	29,832
2009		25,482
2010		23,222
2011		17,218
2012		15,302
Thereafter		20,115
<b>Total</b>	<b>\$</b>	<b>131,171</b>

Expenses charged to operations under these agreements were \$29.3 million, \$28.7 million and \$25.1 million for the years ended December 31, 2007, 2006 and 2005, respectively.

HSNi also has funding commitments that could potentially require its performance in the event of demands by third parties or contingent events, as follows (in thousands):

	Amount of Commitment Expiration Per Period				
	Total Amounts Committed	Less Than 1 Year	1-3 Years	3-5 Years	More Than 5 Years
Letters of credit and surety bonds	\$ 25,390	\$ 25,078	\$ —	\$ 312	\$ —
Purchase obligations	135,023	43,871	80,698	10,454	—
<b>Total commercial commitments</b>	<b>\$ 160,413</b>	<b>\$ 68,949</b>	<b>\$ 80,698</b>	<b>\$ 10,766</b>	<b>\$ —</b>

The letters of credit ("LOCs") primarily consist of trade LOCs, which are used for inventory purchases. Trade LOCs are guarantees of payment based upon the delivery of goods. The surety bonds primarily consist of customs bonds, which relate to the import of merchandise into the United States.

**HSN, INC. AND SUBSIDIARIES**

**NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)**

**NOTE 12—COMMITMENTS (Continued)**

The purchase obligations primarily relate to cable contracts and include obligations for future cable distribution and commission guarantees.

**NOTE 13—CONTINGENCIES**

In the ordinary course of business, HSNi is a party to various lawsuits. HSNi establishes reserves for specific legal matters when it determines that the likelihood of an unfavorable outcome is probable and the loss is reasonably estimable. Management has also identified certain other legal matters where it believes an unfavorable outcome is not probable and, therefore, no reserve is established. Although management currently believes that an unfavorable resolution of claims against HSNi, including claims where an unfavorable outcome is reasonably possible, will not have a material impact on the liquidity, results of operations, or financial condition of HSNi, these matters are subject to inherent uncertainties and management's view of these matters may change in the future. HSNi also evaluates other contingent matters, including tax contingencies, to assess the probability and estimated extent of potential loss. See Note 8 for discussion related to income tax contingencies.

**NOTE 14—FINANCIAL INSTRUMENTS**

	December 31, 2007		December 31, 2006	
	Carrying Amount	Fair Value	Carrying Amount	Fair Value
	(In thousands)			
Cash and cash equivalents	\$ 6,220	\$ 6,220	\$ 53,367	\$ 53,367
Accounts receivable, net	192,609	192,609	158,416	158,416
Letters of credit and surety bonds	N/A	(25,390)	N/A	(29,537)

The carrying amount of cash and cash equivalents reflected in the accompanying combined balance sheets approximate fair value as they are maintained at high quality financial institutions. The majority of HSNi's receivables result from the Flexpay program, which is further described in Note 2 to the combined financial statements. These receivables approximate fair value as they are short-term in nature and are generally settled within two to six months after the sale.

**NOTE 15—SUPPLEMENTAL CASH FLOW INFORMATION**

**Supplemental Disclosure of Non-Cash Transactions for 2007**

On June 19, 2007, in consideration for the sale of HSE to Arcandor AG ("ARO"), formerly known as KarstadtQuelle AG, HSNi received approximately 5.5 million shares of ARO stock valued at €141 million (the "ARO Shares"), plus additional consideration in the form of a contingent value right, that has a value of up to €54 million within three years. In accordance with the terms of the spin-off, the ARO Shares and the contingent value right were transferred to IAC in 2007. This transfer totaled approximately \$217.2 million, of which \$190.1 million related to the ARO Shares and \$27.1 million related to the contingent value right, and is included in "Net transfers to IAC" in the accompanying combined statements of invested equity.

HSN, INC. AND SUBSIDIARIES

NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

NOTE 15—SUPPLEMENTAL CASH FLOW INFORMATION (Continued)

Supplemental Disclosure of Cash Flow Information:

	Years Ended December 31,		
	2007	2006	2005
	(In thousands)		
Cash paid during the period for:			
Income tax payments including amounts paid to IAC for HSNi's share of IAC's consolidated tax liability	\$ 84,516	\$ 94,383	\$ 130,396
Income tax refunds	(761)	(3,176)	(665)

NOTE 16—RELATED PARTY TRANSACTIONS

HSNi's expenses include allocations from IAC of costs associated with IAC's accounting, treasury, legal, tax, corporate support, human resources and internal audit functions. These expenses were allocated based on the ratio of HSNi's revenue as a percentage of IAC's total revenue. Allocated costs were \$8.1 million, \$6.8 million and \$7.2 million in 2007, 2006 and 2005, respectively, and are included in "General and administrative expense" in the accompanying combined statements of operations. It is not practicable to determine the amounts of these expenses that would have been incurred had HSNi operated as an unaffiliated entity. In the opinion of management, the allocation method is reasonable.

During 2007, IAC provided HSNi with non-cash advertising totaling \$4.4 million. See the amortization of non-cash marketing discussion in Note 2 for a further description of this arrangement.

In accordance with the terms of the spin-off, HSNi transferred its investment in ARO stock and related derivative asset to IAC. See Note 15 for a further description of this transfer.

The portion of the interest expense reflected in the combined statements of operations that is intercompany in nature was \$1.7 million, \$2.4 million and \$1.8 million for the years ended December 31, 2007, 2006 and 2005, respectively. This intercompany interest expense, which is included in discontinued operations, arose from the transfer of cash from IAC to HSNi that occurred in connection with IAC's treasury operations.

An analysis of HSNi's receivables from IAC and subsidiaries is as follows (in thousands):

	2007	2006	2005
Receivables from IAC and subsidiaries, beginning of year	\$ 1,483,873	\$ 1,305,373	\$ 358,947
Cash transfers to IAC related to its centrally managed U.S. treasury function	193,742	252,587	1,017,439
Interest expense	(1,728)	(2,428)	(1,793)
Employee equity instruments and associated tax withholdings	4,408	4,225	1,598
Taxes (excludes tax withholdings associated with employee equity instruments)	(9,788)	(1,269)	(3,486)
Goodwill	—	(15)	(9,590)
Amortization of non-cash marketing	(4,442)	—	—
Allocation of non-cash compensation expense	(11,850)	(11,246)	(13,312)
Administrative expenses and other	(73,058)	(63,354)	(44,430)
Receivables from IAC and subsidiaries, end of year	\$ 1,581,157	\$ 1,483,873	\$ 1,305,373

## HSN, INC. AND SUBSIDIARIES

### NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

#### NOTE 16—RELATED PARTY TRANSACTIONS (Continued)

HSNi launched a co-branded credit card program with a subsidiary of GE during 2004. Pursuant to the arrangement, HSNi received approximately \$1.9 million during the period from January 1, 2005 through June 6, 2005 in payments from the GE subsidiary, primarily in the form of revenue share payments in respect of purchases made pursuant to the co-branded card and sales and marketing support for the program. As a result of the sale of IAC's common and preferred interests in VUE on June 7, 2005, GE and its subsidiaries are no longer related parties.

In 2007, a subsidiary of HSNi made payments to a subsidiary of Warner Music Group in the aggregate amount of approximately \$0.4 million for music products. Warner Music Group is a related party of IAC because Mr. Edgar Bronfman, a member of the IAC Board of Directors, is the Chief Executive Officer of Warner Music Group.

#### **Relationship Between IAC and HSNi after the spin-off**

For purposes of governing certain of the ongoing relationships between HSNi and IAC at and after the spin-off, and to provide for an orderly transition, HSNi and IAC are expected to enter into a separation agreement, a tax sharing agreement, an employee matters agreement and a transition services agreement (the "Spin-Off Agreements"), among other agreements.

#### ***Separation Agreement***

The separation agreement is expected to provide generally that (i) immediately prior to the spin-off, IAC will contribute or otherwise transfer to HSNi all of the subsidiaries and assets comprising the HSNi Businesses, (ii) HSNi will assume all of the liabilities related to the HSNi Businesses, (iii) each party will indemnify the other and its respective affiliates, current and former directors, officers and employees for any losses arising out of any breach of any of the Spin-Off Agreements and (iv) HSNi will indemnify IAC for its failure to assume and perform any assumed liabilities and any liabilities relating to HSNi financial and business information included in the SEC documentation filed with respect to the spin-off, as well as such other terms as to which IAC and HSNi mutually agree.

#### ***Tax Sharing Agreement***

The tax sharing agreement will govern the respective rights, responsibilities and obligations of IAC and HSNi after the spin-off with respect to taxes for the periods ending on or before the spin-off. Generally, IAC will pay taxes with respect to HSNi income included on its consolidated, unitary or combined federal or state tax returns, including audit adjustments with respect thereto. Other pre-distribution taxes that are attributable to the HSNi Businesses including taxes reported on separately filed and all foreign returns and audit adjustments with respect thereto, will be borne solely by HSNi. The tax sharing agreement is expected to contain certain customary restrictive covenants that generally prohibit HSNi (absent a supplemental IRS ruling or an unqualified opinion of counsel to the contrary, in each case, in a form and substance satisfactory acceptable to IAC in its sole discretion) from taking actions that could jeopardize the tax free nature of the spin-off. HSNi is expected to agree to indemnify IAC for any taxes and related losses resulting from its non-compliance with these restrictive covenants, as well as for the breach of certain representations in the Spin-Off Agreements and other documentation relating to the tax-free nature of the spin-off.

**HSN, INC. AND SUBSIDIARIES**

**NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)**

**NOTE 16—RELATED PARTY TRANSACTIONS (Continued)**

***Employee Matters Agreement***

The employee matters agreement will generally provide that HSNi will be responsible for, among other obligations, all employment and benefit-related obligations and liabilities related to its employees immediately prior to the spin-off (and their dependents and beneficiaries) and former employees who most recently worked for the HSNi Businesses. This agreement is also expected to provide that assets and liabilities from the IAC Retirement Savings Plan of HSNi employees will be transferred to a newly established HSNi Retirement Savings Plan as soon as practicable following the spin-off.

***Transition Services Agreement***

Under the transition services agreement, beginning on the date of the completion of the spin-off, IAC will provide to HSNi on an interim, transitional basis, various services, which are expected to relate primarily to public company and operational matters, and such other services as to which IAC and HSNi mutually agree. The agreed upon charges for these services will generally allow IAC to recover fully the allocated costs of providing the services, plus all out-of-pocket costs and expenses. HSNi may terminate the agreement with respect to one or more particular services upon prior written notice.

***Commercial Agreements***

IAC and HSNi currently, and for the foreseeable future, expect to provide certain services to each other pursuant to certain commercial relationships. In connection with the spin-off, IAC and HSNi will enter into a number of commercial agreements between subsidiaries of IAC, on the one hand, and subsidiaries of HSNi, on the other hand, many of which will memorialize (in most material respects) pre-existing arrangements in effect prior to the spin-off and all of which are intended to reflect arm's length terms. In addition, IAC and HSNi believe that such agreements, whether taken individually or in the aggregate, do not constitute a material contract to either IAC or HSNi.

Aggregate revenue earned with respect to these commercial agreements by the HSNi Businesses was not material in 2007, 2006 and 2005. HSNi Businesses incurred approximately \$1.8 million, \$1.3 million and \$0.3 million in 2007, 2006 and 2005, respectively, in expenses related to these commercial agreements with IAC subsidiaries.

**NOTE 17—COMPREHENSIVE INCOME**

Accumulated other comprehensive income, net of tax, is comprised of (in thousands):

	December 31,		
	2007	2006	2005
Foreign currency translation	\$ 1,170	\$ 36,215	\$ 19,774
Net gains (losses) on derivative contracts	—	2,355	(1,964)
<b>Accumulated other comprehensive income</b>	<b>\$ 1,170</b>	<b>\$ 38,570</b>	<b>\$ 17,810</b>

HSN, INC. AND SUBSIDIARIES

NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

NOTE 18—BENEFIT PLANS

During the three years ended December 31, 2007, HSNi either participated in a retirement savings plan sponsored by IAC or had a retirement savings plan in the United States that was qualified under Section 401(k) of the Internal Revenue Code. Subsequent to the spin-off, the net assets available for benefits of the employees of HSNi are expected to be transferred from the IAC plan to a newly created HSNi plan. Under the IAC plan, participating employees may contribute up to 16% of their pretax earnings, but not more than statutory limits. HSNi's match under the IAC plan is fifty cents for each dollar a participant contributes in this plan, with a maximum contribution of 3% of a participant's eligible earnings. Matching contributions for all plans were approximately \$4.4 million, \$4.1 million and \$3.1 million in 2007, 2006, and 2005, respectively. The increase in matching contributions in 2006 is primarily related to the acquisition of Cornerstone Brands in 2005. Matching contributions are invested in the same manner as each participant's voluntary contributions in the investment options provided under the plan. Investment options in the plan include IAC common stock, but neither participant nor matching contributions are required to be invested in IAC common stock.

NOTE 19—QUARTERLY RESULTS (UNAUDITED)

	Quarter Ended March 31,	Quarter Ended June 30,(a)	Quarter Ended September 30,	Quarter Ended December 31,
	(In thousands)			
<b>Year Ended December 31, 2007</b>				
Revenue	\$ 666,705	\$ 681,506	\$ 680,763	\$ 879,268
Gross margin	247,999	260,032	256,295	323,868
Operating income	30,147	29,763	36,428	73,453
Earnings from continuing operations	18,652	18,420	22,590	45,571
(Loss) income from discontinued operations, net of tax	(1,566)	56,186	(5,934)	10,885
Net income	17,086	74,606	16,656	56,456
<b>Year Ended December 31, 2006</b>				
Revenue	\$ 665,587	\$ 682,349	\$ 671,753	\$ 858,265
Gross margin	254,846	271,479	258,190	328,236
Operating income	38,670	45,053	48,724	80,749
Earnings from continuing operations	24,263	28,176	30,489	50,604
Income (loss) from discontinued operations, net of tax	469	(7,934)	(3,963)	713
Net income	24,732	20,242	26,526	51,317

(a) The second quarter of 2007 includes an after-tax gain of \$34.8 million related to the sale of HSE, IAC's former Retailing International segment.

**HSN, INC. AND SUBSIDIARIES**  
**VALUATION AND QUALIFYING ACCOUNTS**

Description	Balance at Beginning of Period	Charges to Earnings	Charges to Other Accounts	Deductions	Balance at End of Period
(In thousands)					
<b>2007</b>					
Allowance for doubtful accounts	\$ 5,994	\$ 14,598	\$ (23)	\$ (12,457) <sup>(1)</sup>	\$ 8,112
Sales returns accrual	35,942	592,679	—	(591,025)	37,596
Deferred tax valuation allowance	6,222	—	—	—	6,222
Other reserves	971	—	—	—	331
<b>2006</b>					
Allowance for doubtful accounts	\$ 8,329	\$ 10,734	\$ (147)	\$ (12,922) <sup>(1)</sup>	\$ 5,994
Sales returns accrual	34,462	559,990	—	(558,510)	35,942
Deferred tax valuation allowance	6,222	—	—	—	6,222
Other reserves	1,271	—	—	—	971
<b>2005</b>					
Allowance for doubtful accounts	\$ 10,194	\$ 10,793	\$ 2,120 <sup>(2)</sup>	\$ (14,778) <sup>(1)</sup>	\$ 8,329
Sales returns accrual	25,760	488,510	4,997 <sup>(2)</sup>	(484,805)	34,462
Deferred tax valuation allowance	6,222	—	—	—	6,222
Other reserves	2,188	—	—	—	1,271

(1) Write-off of uncollectible accounts receivable.

(2) Amounts are primarily related to the acquisition of Cornerstone Brands in 2005.



**HSN, INC. AND SUBSIDIARIES**  
**COMBINED STATEMENTS OF OPERATIONS**

(Unaudited)

	Three Months Ended March 31,	
	2008	2007
	(In thousands)	
Revenue	\$ 676,886	\$ 666,705
Cost of sales (exclusive of depreciation shown separately below)	441,402	418,706
	235,484	247,999
Gross margin		
Selling and marketing expense	136,750	136,453
General and administrative expense	54,374	53,966
Production and programming expense	14,343	14,880
Amortization of non-cash marketing	3,715	—
Amortization of intangibles	2,198	4,085
Depreciation	9,026	8,468
	15,078	30,147
Operating income		
Other income (expense):		
Interest income	15	69
Other expense	—	(108)
	15	(39)
Total other income (expense), net		
Earnings from continuing operations before income taxes	15,093	30,108
Income tax provision	(5,687)	(11,456)
	9,406	18,652
<b>Earnings from continuing operations</b>		
Loss from discontinued operations, net of tax	(1,060)	(1,566)
	8,346	17,086
<b>Net income</b>	\$ 8,346	\$ 17,086

The accompanying Notes to Combined Financial Statements are an integral part of these statements.

**HSN, INC. AND SUBSIDIARIES**  
**COMBINED BALANCE SHEETS**

	March 31, 2008	December 31, 2007
	(unaudited)	(audited)
	(In thousands)	
<b>ASSETS</b>		
Cash and cash equivalents	\$ 8,017	\$ 6,220
Accounts receivable, net of allowance of \$9,194 and \$8,112, respectively	159,048	192,609
Inventories	335,806	317,411
Deferred income taxes	24,221	24,606
Prepaid expenses and other current assets	55,713	55,182
	582,805	596,028
Total current assets		
Property and equipment, net	152,168	155,805
Goodwill	2,884,389	2,884,389
Intangible assets, net	569,464	571,662
Other non-current assets	11,503	12,747
	4,200,329	4,220,631
<b>TOTAL ASSETS</b>	<b>\$ 4,200,329</b>	<b>\$ 4,220,631</b>
<b>LIABILITIES AND INVESTED EQUITY</b>		
<b>LIABILITIES:</b>		
Accounts payable, trade	\$ 220,684	\$ 260,531
Income taxes payable	666	1,811
Accrued expenses and other current liabilities	161,220	186,501
	382,570	448,843
Total current liabilities		
Other long-term liabilities	8,832	8,933
Deferred income taxes	822,556	819,969
Commitments and contingencies		
<b>INVESTED EQUITY:</b>		
Invested capital	4,530,799	4,522,873
Receivables from IAC and subsidiaries	(1,545,670)	(1,581,157)
Accumulated other comprehensive income	1,242	1,170
	2,986,371	2,942,886
Total invested equity		
<b>TOTAL LIABILITIES AND INVESTED EQUITY</b>	<b>\$ 4,200,329</b>	<b>\$ 4,220,631</b>

The accompanying Notes to Combined Financial Statements are an integral part of these statements.

**HSN, INC. AND SUBSIDIARIES**  
**COMBINED STATEMENTS OF INVESTED EQUITY**  
**(Unaudited)**

	Total	Invested Capital	Receivables from IAC and Subsidiaries	Accumulated Other Comprehensive Income
	(In thousands)			
<b>Balance as of December 31, 2007</b>	\$ 2,942,886	\$ 4,522,873	\$ (1,581,157)	\$ 1,170
Comprehensive income:				
Net income for the three months ended March 31, 2008	8,346	8,346	—	—
Foreign currency translation	72	—	—	72
	8,418	8,346	—	72
Comprehensive income	8,418	8,346	—	72
Net transfers to IAC	(420)	(420)	—	—
Net change in receivables from IAC and subsidiaries	35,487	—	35,487	—
	35,487	—	35,487	—
<b>Balance as of March 31, 2008</b>	\$ 2,986,371	\$ 4,530,799	\$ (1,545,670)	\$ 1,242

The accompanying Notes to Combined Financial Statements are an integral part of these statements.

**HSN, INC. AND SUBSIDIARIES**  
**COMBINED STATEMENTS OF CASH FLOWS**  
(Unaudited)

	Three Months Ended March 31,	
	2008	2007
	(In thousands)	
<b>Cash flows from operating activities attributable to continuing operations:</b>		
Net income	\$ 8,346	\$ 17,086
Less: loss from discontinued operations, net of tax	1,060	1,566
	9,406	18,652
<b>Earnings from continuing operations</b>		
Adjustments to reconcile earnings from continuing operations to net cash used in operating activities attributable to continuing operations:		
Amortization of intangibles	2,198	4,085
Depreciation	9,026	8,468
Non-cash compensation expense	3,040	3,035
Amortization of cable and satellite distribution fees	1,120	1,241
Amortization of non-cash marketing	3,715	—
Deferred income taxes	2,972	(2,095)
Bad debt expense	4,596	2,389
Inventory carrying value adjustment	(3,831)	2,588
Changes in current assets and liabilities:		
Accounts receivable	28,964	20,215
Inventories	(14,564)	(30,577)
Prepaid expenses and other current assets	(525)	(11,272)
Accounts payable and other current liabilities	(65,744)	(56,839)
Income taxes payable	(1,604)	(194)
Other, net	446	1,134
	(20,785)	(39,170)
<b>Net cash used in operating activities attributable to continuing operations</b>		
<b>Cash flows from investing activities attributable to continuing operations:</b>		
Transfers from IAC	28,280	43,104
Capital expenditures	(6,629)	(8,183)
Other, net	—	67
	21,651	34,988
<b>Net cash provided by investing activities attributable to continuing operations</b>		
<b>Cash flows from financing activities attributable to continuing operations:</b>		
Principal payments on long-term obligations	(30)	—
Excess tax benefits from stock-based awards	5	1,152
	(25)	1,152
<b>Net cash (used in) provided by financing activities attributable to continuing operations</b>		
<b>Total cash provided by (used in) by continuing operations</b>		
	841	(3,030)
Net cash provided by operating activities attributable to discontinued operations	751	7,945
Net cash used in investing activities attributable to discontinued operations	—	(1,459)
Net cash provided by financing activities attributable to discontinued operations	925	4,208
	1,676	10,694
<b>Total cash provided by discontinued operations</b>		
Effect of exchange rate changes on cash and cash equivalents	(720)	1,248
	1,797	8,912
<b>Net increase in cash and cash equivalents</b>		
Cash and cash equivalents at beginning of period	6,220	53,367
	\$ 8,017	\$ 62,279
<b>Cash and cash equivalents at end of period</b>		

The accompanying Notes to Combined Financial Statements are an integral part of these statements.

## NOTES TO COMBINED FINANCIAL STATEMENTS

## NOTE 1—ORGANIZATION

**Spin-Off**

On November 5, 2007, IAC/InterActiveCorp ("IAC") announced that its Board of Directors approved a plan to separate IAC into five publicly traded companies, identifying HSN, Inc. ("HSNi") as one of those five companies. In these combined financial statements, we refer to the separation transaction as the "spin-off." In connection with the spin-off, HSNi was incorporated as a Delaware corporation in May 2008. HSNi currently does not have any material assets or liabilities, nor does it engage in any business or other activities and, other than in connection with the spin-off, will not acquire or incur any material assets or liabilities, nor will it engage in any business or other activities. Upon completion of the spin-off, HSNi will consist of HSN and Cornerstone, the businesses that formerly comprised IAC's Retailing segment. HSN consists of the HSN television network and *HSN.com*, and Cornerstone includes the Cornerstone Brands portfolio of leading print catalogs and related websites, as well as a limited number of retail stores. HSNi will not include the equity investment in Jupiter Shop Channel, the investment in Arcandor AG and the related contingent value right. The businesses to be operated by HSNi following the spin-off are referred to herein as the "HSNi Businesses." HSNi will also include the entities classified as discontinued operations in Note 6.

**Basis of Presentation**

The historical combined financial statements of HSNi and its subsidiaries reflect the contribution or other transfer to HSNi of all of the subsidiaries and assets and the assumption by HSNi of all of the liabilities relating to the HSNi Businesses in connection with the spin-off and the allocation to HSNi of certain IAC corporate expenses relating to the HSNi Businesses. Accordingly, the historical combined financial statements of HSNi reflect the historical financial position, results of operations and cash flows of the HSNi Businesses since their respective dates of acquisition by IAC, based on the historical consolidated financial statements and accounting records of IAC and using the historical results of operations and historical bases of the assets and liabilities of the HSNi Businesses with the exception of accounting for income taxes. For purposes of these financial statements, income taxes have been computed for HSNi on an as if stand-alone, separate tax return basis. These financial statements are prepared on a combined, rather than a consolidated, basis because they exclude certain investments and assets that were owned, either directly or indirectly, by legal entities that comprise the HSNi Businesses. The ownership of these investments and assets will be retained by IAC after the spin-off. These combined financial statements present IAC's and its subsidiaries net investment in the HSNi Businesses as invested equity in lieu of shareholders' equity. Intercompany transactions and accounts have been eliminated.

In the opinion of HSNi's management, the assumptions underlying the historical combined financial statements of HSNi are reasonable. However, this financial information does not necessarily reflect what the historical financial position, results of operations and cash flows of HSNi would have been had HSNi been a stand-alone company during the periods presented.

The accompanying unaudited combined financial statements have been prepared in accordance with U.S. generally accepted accounting principles for interim financial information and with the rules and regulations of the Securities and Exchange Commission. Accordingly, they do not include all of the information and notes required by U.S. generally accepted accounting principles for complete financial statements. In the opinion of HSNi's management, all adjustments (consisting of normal recurring accruals) considered necessary for a fair presentation have been included. Interim results are not

## HSN, INC. AND SUBSIDIARIES

### NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

#### NOTE 1—ORGANIZATION (Continued)

necessarily indicative of the results that may be expected for a full year. The accompanying unaudited combined financial statements should be read in conjunction with HSNi's audited combined financial statements and notes thereto for the year ended December 31, 2007.

##### Company Overview

HSNi markets and sells a wide range of third party and private label merchandise directly to consumers through (i) television home shopping programming broadcast on the HSN television network, (ii) catalogs, which consist primarily of the Cornerstone Brands portfolio of leading print catalogs which includes Frontgate, Garnet Hill, Ballard Designs, Improvements, Smith & Noble, The Territory Ahead and TravelSmith and (iii) websites, which consist primarily of *HSN.com* and branded websites operated by Cornerstone Brands. HSNi's television home shopping business and related internet commerce is referred to herein as "HSN" and all catalog operations, including related internet commerce, are collectively referred to herein as "Cornerstone."

HSN offerings primarily consist of jewelry, apparel & accessories, health & beauty and home & other. Merchandise offered by Cornerstone primarily consists of home furnishings (including indoor/outdoor furniture, window treatments and other home related goods) and apparel & accessories.

#### NOTE 2—SIGNIFICANT ACCOUNTING POLICIES

##### Accounting Estimates

HSNi's management is required to make certain estimates and assumptions during the preparation of the combined financial statements in accordance with U.S. generally accepted accounting principles. These estimates and assumptions impact the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities as of the date of the combined financial statements. They also impact the reported amount of net earnings during any period. Actual results could differ from those estimates.

Significant estimates underlying the accompanying combined financial statements include: the determination of the lower of cost or market adjustment for inventory; sales returns and other revenue allowances; the allowance for doubtful accounts; the recoverability of long-lived assets; the recovery of goodwill and intangible assets; the determination of deferred income taxes, including related valuation allowances; and assumptions related to the determination of stock-based compensation.

##### Recent Accounting Pronouncements

In December 2007, the Financial Accounting Standards Board ("FASB") issued SFAS No. 160, "Noncontrolling Interests in Consolidated Financial Statements—an amendment of Accounting Research Bulletin No. 51" ("SFAS No. 160"). SFAS No. 160 establishes accounting and reporting standards for ownership interests in subsidiaries held by parties other than the parent, the amount of consolidated net income attributable to the parent and to the noncontrolling interest, changes in a parent's ownership interest and the valuation of retained noncontrolling equity investments when a subsidiary is deconsolidated. The Statement also establishes reporting requirements that provide sufficient disclosures that clearly identify and distinguish between the interests of the parent and the interests of the noncontrolling owners. SFAS No. 160 is effective for fiscal years beginning after December 15, 2008. SFAS No. 160 will be applied prospectively, except as it relates to disclosures, for

HSN, INC. AND SUBSIDIARIES

NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

NOTE 2—SIGNIFICANT ACCOUNTING POLICIES (Continued)

which the effects will be applied retrospectively for all periods presented. Early adoption is not permitted. HSNi is currently assessing the impact of SFAS No. 160 on its combined financial position, results of operations and cash flows.

In December 2007, the FASB issued SFAS No. 141 (revised 2007), "Business Combinations" ("SFAS No. 141R"), which replaces FASB Statement No. 141. SFAS No. 141R establishes principles and requirements for how an acquirer recognizes and measures in its financial statements the identifiable assets acquired, the liabilities assumed, any noncontrolling interest in the acquiree and the goodwill acquired. The Statement also establishes disclosure requirements that will enable users to evaluate the nature and financial effects of the business combination. SFAS No. 141R applies prospectively to business combinations in fiscal years beginning after December 15, 2008. Early adoption is not permitted. HSNi is currently assessing the impact of the adoption of SFAS No. 141R on its combined financial position, results of operations and cash flows.

NOTE 3—GOODWILL AND INTANGIBLE ASSETS

The balance of goodwill and intangible assets, net is as follows (in thousands):

	March 31, 2008	December 31, 2007
Goodwill	\$ 2,884,389	\$ 2,884,389
Intangible assets with indefinite lives	554,848	554,848
Intangible assets with definite lives, net	14,616	16,814
Total goodwill and intangible assets, net	\$ 3,453,853	\$ 3,456,051

Intangible assets with indefinite lives relate principally to trade names and trademarks acquired in various acquisitions. At March 31, 2008, intangible assets with definite lives relate to the following (in thousands):

	Cost	Accumulated Amortization	Net	Weighted Average Amortization Life (Years)
Distribution agreements	\$ 159,268	\$ (159,268)	\$ —	4.1
Customer lists	36,773	(24,082)	12,691	4.7
Merchandise agreements	33,257	(33,257)	—	4.7
Technology	28,007	(28,007)	—	3.9
Other	7,409	(5,484)	1,925	8.5
Total	\$ 264,714	\$ (250,098)	\$ 14,616	

HSN, INC. AND SUBSIDIARIES

NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

NOTE 3—GOODWILL AND INTANGIBLE ASSETS (Continued)

At December 31, 2007, intangible assets with definite lives relate to the following (in thousands):

	Cost	Accumulated Amortization	Net	Weighted Average Amortization Life (Years)
Distribution agreements	\$ 159,268	\$ (159,268)	\$ —	4.1
Customer lists	36,773	(22,468)	14,305	4.7
Merchandise agreements	33,257	(33,257)	—	4.7
Technology	28,007	(27,665)	342	3.9
Other	7,409	(5,242)	2,167	8.5
<b>Total</b>	<b>\$ 264,714</b>	<b>\$ (247,900)</b>	<b>\$ 16,814</b>	

Amortization of intangible assets with definite lives is computed on a straight-line basis and, based on December 31, 2007 balances, such amortization for the next four years is estimated to be as follows (in thousands):

Years Ending December 31,

2008	\$ 7,463
2009	6,844
2010	2,132
2011	375
	<b>\$ 16,814</b>

NOTE 4—PROPERTY AND EQUIPMENT

The balance of property and equipment, net is as follows (in thousands):

	March 31, 2008	December 31, 2007
Capitalized software	\$ 174,407	\$ 169,709
Computer and broadcast equipment	83,100	81,821
Buildings and leasehold improvements	75,530	72,815
Furniture and other equipment	59,789	58,058
Projects in progress	13,873	19,572
Land	11,778	11,778
	<b>418,477</b>	<b>413,753</b>
Less: accumulated depreciation and amortization	(266,309)	(257,948)
<b>Total property and equipment, net</b>	<b>\$ 152,168</b>	<b>\$ 155,805</b>

NOTE 5—SEGMENT INFORMATION

The overall concept that HSNi employs in determining its operating segments and related financial information is to present them in a manner consistent with how the chief operating decision maker and executive management view the businesses, how the businesses are organized as to segment



HSN, INC. AND SUBSIDIARIES

NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

NOTE 5—SEGMENT INFORMATION (Continued)

management, and the focus of the businesses with regards to the types of products or services offered or the target market. HSNi has two operating segments, HSN and Cornerstone. Entities included in discontinued operations, as described in Note 6, are excluded from the schedules below.

HSNi's primary metric is Operating Income Before Amortization, which is defined as operating income excluding, if applicable: (1) non-cash compensation expense and amortization of non-cash marketing, (2) amortization of intangibles and goodwill impairment, (3) pro forma adjustments for significant acquisitions, and (4) one-time items. HSNi believes this measure is useful to investors because it represents the combined operating results from HSNi's segments, taking into account depreciation, which it believes is an ongoing cost of doing business, but excluding the effects of any other non-cash expenses. Operating Income Before Amortization has certain limitations in that it does not take into account the impact to HSNi's statement of operations of certain expenses, including non-cash compensation, amortization of non-cash marketing and acquisition-related accounting.

The following tables reconcile Operating Income Before Amortization to operating income for HSNi's operating segments and to net income in total (in thousands):

	For the Three Months Ended March 31, 2008:				
	Operating Income Before Amortization	Non-Cash Compensation Expense	Amortization of Non-Cash Marketing	Amortization of Intangibles	Operating Income (Loss)
HSN	\$ 29,935	\$ (1,586)	\$ (3,715)	\$ (143)	\$ 24,491
Cornerstone	(5,904)	(1,454)	—	(2,055)	(9,413)
<b>Total</b>	<b>\$ 24,031</b>	<b>\$ (3,040)</b>	<b>\$ (3,715)</b>	<b>\$ (2,198)</b>	<b>15,078</b>
Other income, net					15
Earnings from continuing operations before income taxes					15,093
Income tax provision					(5,687)
Earnings from continuing operations					9,406
Loss from discontinued operations, net of tax					(1,060)
<b>Net income</b>					<b>\$ 8,346</b>

HSN, INC. AND SUBSIDIARIES

NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

NOTE 5—SEGMENT INFORMATION (Continued)

	For the Three Months Ended March 31, 2007:			
	Operating Income Before Amortization	Non-Cash Compensation Expense	Amortization of Intangibles	Operating Income
HSN	\$ 30,271	\$ (1,169)	\$ (1,654)	\$ 27,448
Cornerstone	6,996	(1,866)	(2,431)	2,699
<b>Total</b>	<b>\$ 37,267</b>	<b>\$ (3,035)</b>	<b>\$ (4,085)</b>	<b>30,147</b>
Other expense, net				(39)
Earnings from continuing operations before income taxes				30,108
Income tax provision				(11,456)
Earnings from continuing operations				18,652
Loss from discontinued operations, net of tax				(1,566)
<b>Net income</b>				<b>\$ 17,086</b>

Non-cash compensation expense in the tables above is included in the following line items in the accompanying consolidated statements of operations for the three months ended March 31, 2008 and 2007 (in thousands):

	Three Months Ended March 31,	
	2008	2007
Cost of sales	\$ 236	\$ 231
Selling and marketing expense	258	253
General and administrative expense	2,544	2,549
Production and programming expense	2	2
<b>Non-cash compensation expense</b>	<b>\$ 3,040</b>	<b>\$ 3,035</b>

	Three Months Ended March 31,	
	2008	2007
	(In thousands)	
<b>Revenue:</b>		
HSN	\$ 478,973	\$ 454,053
Cornerstone	197,954	212,775
Inter-segment elimination	(41)	(123)
<b>Total</b>	<b>\$ 676,886</b>	<b>\$ 666,705</b>

HSNi does not report revenue from external customers for each product or each group of similar products as it is impracticable to do so.

HSN, INC. AND SUBSIDIARIES

NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

NOTE 5—SEGMENT INFORMATION (Continued)

HSNi maintains operations principally in the United States. Geographic information about the United States and international territories is presented below (in thousands):

	Three Months Ended March 31,	
	2008	2007
<b>Revenue:</b>		
United States	\$ 676,522	\$ 666,457
All Other countries	364	248
Total	\$ 676,886	\$ 666,705
	March 31, 2008	December 31, 2007
<b>Long-lived assets (excluding goodwill and intangible assets):</b>		
United States	\$ 162,687	\$ 167,444
All Other countries	—	—
Total	\$ 162,687	\$ 167,444

NOTE 6—DISCONTINUED OPERATIONS

On June 19, 2007, HSNi sold Home Shopping Europe GmbH & Co. KG, and its affiliated station HSE24 ("HSE"). Accordingly, HSE is presented as a discontinued operation in the statement of operations for the three months ended March 31, 2007. Quiz TV Limited and iBuy are also presented as discontinued operations for all periods presented.

NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

NOTE 6—DISCONTINUED OPERATIONS (Continued)

The net revenue and net loss for the aforementioned discontinued operations for the applicable periods were as follows (in thousands):

	Three Months Ended March 31,	
	2008	2007
Net revenue	\$ 3	\$ 105,917
(Loss) earnings before income taxes	\$ (1,722)	\$ 898
Income tax benefit (provision)	662	(2,464)
Net loss	\$ (1,060)	\$ (1,566)

NOTE 7—COMPREHENSIVE INCOME

Comprehensive income is comprised of (in thousands):

	Three Months Ended March 31,	
	2008	2007
Net income	\$ 8,346	\$ 17,086
Foreign currency translation	72	2,049
Net losses on derivative contracts	—	(2,462)
Other comprehensive income	72	(413)
Comprehensive income	\$ 8,418	\$ 16,673

Accumulated other comprehensive income at March 31, 2008 and December 31, 2007 is solely related to foreign currency translation and is recorded net of tax.

NOTE 8—INCOME TAXES

HSNi calculates its interim income tax provision in accordance with Accounting Principles Board Opinion No. 28 and FASB Interpretation No. 18. At the end of each interim period, HSNi makes its best estimate of the annual expected effective tax rate and applies that rate to its ordinary year-to-date earnings or loss. The tax or benefit related to significant, unusual, or extraordinary items that will be separately reported or reported net of their related tax effect are individually computed and recognized in the interim period in which those items occur. In addition, the effect of changes in enacted tax laws or rates, tax status, or judgment on the realizability of a beginning-of-the-year deferred tax asset in future years is recognized in the interim period in which the change occurs.

The computation of the annual expected effective tax rate at each interim period requires certain estimates and assumptions including, but not limited to, the expected operating income for the year, permanent and temporary differences, and the likelihood of recovering deferred tax assets generated in the current year. The accounting estimates used to compute the provision for income taxes may change as new events occur, more experience is acquired, additional information is obtained or HSNi's tax environment changes. To the extent that the estimated annual effective tax rate changes during a quarter, the effect of the change on prior quarters is included in tax expense for the current quarter.

## HSN, INC. AND SUBSIDIARIES

### NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)

#### NOTE 8—INCOME TAXES (Continued)

For the three months ended March 31, 2008 and 2007, HSNi recorded tax provisions for continuing operations of \$5.7 million and \$11.5 million, respectively, which represent effective tax rates of 38%. The tax rates for the three months ended March 31, 2008 and March 31, 2007 are higher than the federal statutory rate of 35% due principally to state taxes.

As of December 31, 2007 and March 31, 2008, HSNi had unrecognized tax benefits of approximately \$8.9 million. Included in unrecognized tax benefits at March 31, 2008 is approximately \$8.8 million for tax positions included in IAC's consolidated tax return filings that will remain a liability of IAC after the spin-off. HSNi recognizes interest and, if applicable, penalties related to unrecognized tax benefits in income tax expense. Included in income tax expense for the three months ended March 31, 2008 is \$0.1 million, net of related deferred taxes, for interest on unrecognized tax benefits. At March 31, 2008, HSNi has accrued \$3.0 million for the payment of interest. There are no material accruals for penalties.

By virtue of previously filed separate company and consolidated tax returns with IAC, HSNi is routinely under audit by federal, state, local and foreign authorities in the area of income tax. These audits include questioning the timing and the amount of deductions and the allocation of income among various tax jurisdictions. Income taxes payable include amounts considered sufficient to pay assessments that may result from examination of prior year returns; however, the amount paid upon resolution of issues raised may differ from the amount provided. Differences between the reserves for tax contingencies and the amounts owed by HSNi are recorded in the period they become known.

The Internal Revenue Service is currently examining the IAC consolidated tax returns for the years ended December 31, 2001 through 2003, which includes the operations of HSNi. The statute of limitations for these years has been extended to December 31, 2008. Various IAC consolidated tax returns filed with state, local and foreign jurisdictions are currently under examination, the most significant of which are California, Florida, New York state and New York City, for various tax years after December 31, 2001. These examinations are expected to be completed by late 2008.

HSNi believes that it is reasonably possible that its unrecognized tax benefits could decrease by approximately \$2.5 million within twelve months of the current reporting date due to the reversal of deductible temporary differences which will result in a corresponding increase in net deferred tax liabilities. An estimate of other changes in unrecognized tax benefits cannot be made, but are not expected to be significant.

#### NOTE 9—CONTINGENCIES

In the ordinary course of business, HSNi is a party to various lawsuits. HSNi establishes reserves for specific legal matters when it determines that the likelihood of an unfavorable outcome is probable and the loss is reasonably estimable. Management has also identified certain other legal matters where it believes an unfavorable outcome is not probable and, therefore, no reserve is established. Although management currently believes that an unfavorable resolution of claims against HSNi, including claims where an unfavorable outcome is reasonably possible, will not have a material impact on the liquidity, results of operations, or financial condition of HSNi, these matters are subject to inherent uncertainties and management's view of these matters may change in the future. HSNi also evaluates other contingent matters, including tax contingencies, to assess the probability and estimated extent of potential loss. See Note 8 for discussion related to income tax contingencies.

**HSN, INC. AND SUBSIDIARIES**

**NOTES TO COMBINED FINANCIAL STATEMENTS (Continued)**

**NOTE 10—RELATED PARTY TRANSACTIONS**

HSNi's expenses include allocations from IAC of costs associated with IAC's accounting, treasury, legal, tax, corporate support, human resources and internal audit functions. These expenses were allocated based on the ratio of HSNi's revenue as a percentage of IAC's total revenue. Allocated costs were \$1.8 million and \$1.8 million for the three months ended March 31, 2008 and 2007, respectively, and are included in "General and administrative expense" in the accompanying combined statements of operations. It is not practicable to determine the amounts of these expenses that would have been incurred had HSNi operated as an unaffiliated entity. In the opinion of management, the allocation method is reasonable.

The portion of the interest expense reflected in the combined statements of operations that is intercompany in nature was \$0.9 million for the three months ended March 31, 2007. There was no interest expense that is intercompany in nature for the three months ended March 31, 2008. This intercompany interest expense, which is included in discontinued operations, arose from the transfer of cash from IAC to HSNi that occurred in connection with IAC's treasury operations.

An analysis of HSNi's receivables from IAC and subsidiaries is as follows (in thousands):

		<b>March 31, 2008</b>
Receivables from IAC and subsidiaries at December 31, 2007	\$	1,581,157
Cash transfers from IAC related to its centrally managed U.S. treasury function		(21,429)
Employee equity instruments and associated tax withholdings		1,305
Taxes (excludes tax withholdings associated with employee equity instruments)		662
Amortization of non-cash marketing		(3,715)
Allocation of non-cash compensation expense		(2,983)
Administrative expenses and other		(9,327)
		1,545,670
Receivables from IAC and subsidiaries at March 31, 2008	\$	1,545,670

**Relationship Between IAC and HSNi after the Spin-Off**

For purposes of governing certain of the ongoing relationships between HSNi and IAC at and after the spin-off, and to provide for an orderly transition, HSNi and IAC are expected to enter into a separation agreement, a tax sharing agreement, an employee matters agreement and a transition services agreement (the "Spin-Off Agreements"), among other agreements. See HSNi's combined financial statements for the year ended December 31, 2007 for descriptions of these agreements.

**PART II**

**INFORMATION NOT REQUIRED IN PROSPECTUS**

**Item 14. Other Expenses Of Issuance And Distribution**

The following is a statement of the expenses (all of which are estimated other than the SEC registration fee) to be incurred by the Registrant in connection with the distribution of the securities registered under this registration statement:

Item	Amount*
SEC Registration Fee	\$ 117.36
Printing Fees and Expenses	100,000
Nasdaq Listing Fee	150,000
Legal Fees and Expenses	250,000
Accounting Fees and Expenses	20,000
Miscellaneous	—
<b>Total</b>	<b>\$ 520,117.36</b>

\* All fees are estimates except SEC registration fee and Nasdaq listing fee

**Item 15. Indemnification Of Directors And Officers**

Section 145 of the DGCL provides that a corporation may indemnify directors and officers as well as other employees and individuals against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, in which such person is made a party by reason of the fact that the person is or was a director, officer, employee or agent of the corporation (other than an action by or in the right of the corporation—a "derivative action"), if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful. A similar standard is applicable in the case of derivative actions, except that indemnification only extends to expenses (including attorneys' fees) incurred in connection with the defense or settlement of such action, and the statute requires court approval before there can be any indemnification where the person seeking indemnification has been found liable to the corporation. The statute provides that it is not exclusive of other indemnification that may be granted by a corporation's by-laws, disinterested director vote, stockholder vote, agreement or otherwise.

Our Amended and Restated Certificate of Incorporation provides that no director shall be liable to the Company or its stockholders for monetary damages for breach of fiduciary duty as a director, except to the extent such exemption from liability or limitation on liability is not permitted under the DGCL, as now in effect or as amended. Currently, Section 102(b)(7) of the DGCL requires that liability be imposed for the following:

- any breach of the director's duty of loyalty to the Company or its stockholders;
- any act or omission not in good faith or which involved intentional misconduct or a knowing violation of law;
- unlawful payments of dividends or unlawful stock repurchases or redemptions as provided in Section 174 of the DGCL; and
- any transaction from which the director derived an improper personal benefit.

Our Amended and Restated Certificate of Incorporation and by-laws provide that, to the fullest extent authorized by the DGCL, as now in effect or as amended, we will indemnify any person who was or is a party or is threatened to be made a party to any action, suit or proceeding by reason of the fact that such person, or a person of whom he or she is the legal representative, is or was a director or officer of the Company, or by reason of the fact such person, or a person of whom he or she is the legal representative is or was serving, at the Company's request, as a director, officer, or trustee of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans maintained or sponsored by the Company. To the extent authorized by the DGCL, the Company will indemnify such persons against all expenses, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such persons in connection with such service. Any amendment of these provisions will not reduce the indemnification obligations of the Company relating to actions taken before such amendment.

The Company intends to obtain policies that insure its directors and officers and those of its subsidiaries against certain liabilities they may incur in their capacity as directors and officers. Under these policies, the insurer, on behalf of the Company, may also pay amounts for which the Company has granted indemnification to the directors or officers.

**Item 16. Exhibits and Financial Statement Schedules**

- (a) See Exhibit Index.
- (b) See Schedule II—Valuation and Qualifying Accounts.

**Item 17. Undertakings**

The undersigned Registrant hereby undertakes:

- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement to include any material information with respect to the plan of distribution not previously disclosed in this registration statement or any material change to such information in this registration statement.
- (2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (3) To remove from registration by means of a post-effective amendment any of the Securities being registered which remain unsold at the termination of the offering.
- (4) That, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.





## INDEX TO EXHIBITS

Exhibit	Description
2.1	Form of Separation and Distribution Agreement by and among HSN, Inc., Interval Leisure Group, Inc., Ticketmaster, Tree.com, Inc. and IAC/InterActiveCorp
3.1	Form of Amended and Restated Certificate of Incorporation of HSN, Inc.
3.2	Form of Amended and Restated By-laws of HSN, Inc.
5.1	Opinion of the General Counsel of IAC/InterActiveCorp regarding the legality of the securities being issued
8.1	Opinion of Wachtell, Lipton, Rosen & Katz regarding tax matters
10.1	Form of Tax Sharing Agreement among HSN, Inc., Interval Leisure Group, Inc., Ticketmaster, Tree.com, Inc. and IAC/InterActiveCorp
10.2	Form of Transition Services Agreement among HSN, Inc., Interval Leisure Group, Inc., Ticketmaster, Tree.com, Inc. and IAC/InterActiveCorp
10.3	Form of Employee Matters Agreement among HSN, Inc., Interval Leisure Group, Inc., Ticketmaster, Tree.com, Inc. and IAC/InterActiveCorp
10.4	Spinco Agreement, dated as of May 13, 2008, between IAC/InterActiveCorp, Liberty Media Corporation, LMC Silver King, Inc., Liberty HSN II, Inc., LMC USA VIII, Inc., LMC USA IX, Inc., LMC USA XI, Inc., LMC USA XII, Inc., LMC USA XIII, Inc., LMC USA XIV, Inc., LMC USA XV, Inc., Liberty Tweety, Inc., BDTV Inc., BDTV II Inc., BDTV III Inc., BDTV IV Inc. and Barry Diller (filed as Exhibit 10.1 to IAC/InterActiveCorp's Current Report on Form 8-K (SEC File No. 0-20570) dated May 16, 2008 and incorporated herein by reference)
10.5	Employment Agreement between Mindy Grossman and IAC/InterActiveCorp, dated as of July 29, 2008†
10.6	Employment Agreement between William Lynch, HSN General Partner LLC and IAC/InterActiveCorp, dated as of November 19, 2007†
10.7	Employment Agreement between Lynne Ronon and HSN General Partner LLC, dated as of October 15, 2007†
10.8	Employment Agreement between Judy A. Schmeling and HSN General Partner LLC, dated as of April 1, 2007†
10.9	Employment Agreement between Jim Warner and HSN General Partner LLC, dated as of March 13, 2007†
10.10	HSN, Inc. 2008 Stock and Annual Incentive Plan†
10.11	Deferred Compensation Plan for Non-Employee Directors†
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- 23.3 Consent of Wachtell, Lipton, Rosen & Katz (included in Exhibit 8.1)
  - 99.1 Consent of Mindy Grossman to being named as a director
  - 99.2 Consent of Michael C. Boyd to being named as a director
  - 99.3 Consent of Patrick Bousquet-Chavanne to being named as a director
  - 99.4 Consent of William Costello to being named as a director
  - 99.5 Consent of James Follo to being named as a director
  - 99.6 Consent of Stephanie Kugelman to being named as a director
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  - 99.8 Letter to stockholders of IAC/InterActiveCorp
  - 99.9 Supplemental Quarterly Financial Data for the Year Ended December 31, 2007
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† Reflects management contracts and management and director compensatory plans

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FORM OF  
SEPARATION AND DISTRIBUTION AGREEMENT

by and among

IAC/INTERACTIVECORP,

HSN, INC.,

INTERVAL LEISURE GROUP, INC.,

TICKETMASTER

and

TREE.COM, INC.

DATED AS OF [     ], 2008

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## SEPARATION AND DISTRIBUTION AGREEMENT

This SEPARATION AND DISTRIBUTION AGREEMENT, dated as of [ ], 2008, is entered into by and among IAC/InterActiveCorp, a Delaware corporation (“IAC”), HSN, Inc., a Delaware corporation and wholly owned subsidiary of IAC (“HSN Spinco”), Interval Leisure Group, Inc., a Delaware corporation and wholly owned subsidiary of IAC (“Interval Spinco”), Ticketmaster, a Delaware corporation and wholly owned subsidiary of IAC (“TM Spinco”), and Tree.com, Inc., a Delaware corporation and wholly owned subsidiary of IAC (“Tree Spinco”; together with TM Spinco, Interval Spinco and HSN Spinco, the “Spincos”; the Spinco and IAC, collectively, the “Separate-cos” or “Parties”).

### RECITALS:

WHEREAS, IAC, acting through its direct and indirect Subsidiaries, currently conducts a number of businesses, including (i) the Ticketing Business (as defined herein), (ii) the Vacations Business (as defined herein), (iii) the Retailing Business (as defined herein), (iv) the Lending and Real Estate Business (as defined herein) (together with the Ticketing Business, the Vacations Business and the Retailing Business, the “Spun Businesses”) and (v) the Remaining Business (as defined herein);

WHEREAS, the Board of Directors of IAC (the “IAC Board”) has determined that it is appropriate, desirable and in the best interests of IAC and its stockholders to separate IAC into five publicly-traded companies (the “Separation”): (i) TM Spinco, which following the Separation will own and conduct, directly or indirectly, the Ticketing Business, (ii) Interval Spinco, which following the Separation will own and conduct, directly or indirectly, the Vacations Business, (iii) HSN Spinco, which following the Separation will own and conduct, directly or indirectly, the Retailing Business, (iv) Tree Spinco, which following the Separation will own and conduct, directly or indirectly, the Lending and Real Estate Business, and (v) IAC, which following the Separation will own and conduct, directly or indirectly, the Remaining Business;

WHEREAS, following the merger on [ ], 2008 of a wholly owned subsidiary of IAC with and into IAC, the outstanding shares of capital stock of

IAC consist solely of common stock, par value \$0.001 per share, of IAC (“IAC Common Stock”) and Class B common stock, par value \$0.001 per share, of IAC (“IAC Class B Common Stock”);

WHEREAS, in order to effect the Separation, the IAC Board has determined that it is appropriate, desirable and in the best interests of IAC and its stockholders: (i) for IAC and its Subsidiaries to enter into a series of transactions as set forth in the Transactions Memorandum dated of even date herewith (the “Transactions Memo”) as a result of which one or more members of each Group (as defined herein) will, collectively, own all of such Group’s Corresponding Assets (as defined herein) and assume (or retain) all of such Group’s Corresponding Liabilities (as defined herein); and, thereafter (ii) for IAC to distribute to the holders of IAC Common Stock and the holders of IAC Class B Common Stock (in each case without consideration being paid by such stockholders), on a pro rata basis, all of the issued and

outstanding shares of Spinco Common Stock (as defined herein) of each Spinco;

WHEREAS, each of the Separate-cos has determined that it is necessary and desirable, on or prior to the Effective Time (as defined herein), to allocate and transfer to the applicable Group those Assets, and to allocate and assign to the applicable Group responsibility for those Liabilities, in respect of the activities of the Corresponding Businesses (as defined herein) of such Group;

WHEREAS, it is the intention of the Parties that each of the Distributions (as defined herein) qualify as a transaction that is generally tax free for United States federal income tax purposes under Sections 355 and/or 368(a)(1)(D) of the Internal Revenue Code of 1986, as amended (the “Code”);

WHEREAS, in connection with the Distributions, each of HSN Spinco and/or its Subsidiaries, Interval Spinco and/or its Subsidiaries and TM Spinco and/or its Subsidiaries will, subject to the terms and provisions of this Agreement, enter into separate credit facilities and/or issue new debt securities, all or a portion of the cash proceeds of borrowings under which shall be distributed to IAC;

WHEREAS, (a) IAC has entered into an agreement with certain holders of its 7% Senior Notes due 2013 (the “IAC Notes”) providing for, among other things, (i) IAC to exchange (the “Exchange”) new 9.5% Senior Notes due 2016 of Interval Acquisition Corp. (as defined herein) that it will receive from Interval Acquisition Corp. as set forth in the Transactions Memorandum (the “Interval Senior Notes”) and (ii) the simultaneous closing of the Exchange and the cash tender offer being made by IAC for any and all of the outstanding IAC Notes (the “IAC Notes Tender Offer”) and (b) it is intended that the issuance of the Interval Senior Notes to IAC and the Exchange, together with the IAC Notes Tender Offer, are in connection with the Interval Distribution and are intended to give rise to a succession event (with Interval as the sole successor to IAC) for credit derivatives purposes; and

WHEREAS, the Parties wish to set forth in this Agreement the terms on which, and the conditions subject to which, they intend to implement the measures described above.

NOW THEREFORE, in consideration of the mutual agreements, covenants and other provisions set forth in this Agreement, the Parties hereby agree as follows:

## ARTICLE I INTERPRETATION

1.01. Definitions. The capitalized words and expressions and variations thereof used in this Agreement or in its schedules, unless a clearly inconsistent meaning is required under the context, shall have the meanings set forth below:

“2008 Internal Control Audit and Management Assessments” has the meaning set forth in Section 11.01(b).

“AAA” has the meaning set forth in Section 9.03.

“Accounts Receivable” means in respect of any Person, (a) all trade accounts and notes receivable and other rights to payment from customers and all security for such accounts or rights to payment, including all trade accounts receivable representing amounts receivable in respect of goods shipped or products sold or otherwise disposed of or services rendered to customers, (b) all other accounts and notes receivable and all security for such accounts or notes, and (c) any claim, remedy or other right relating to any of the foregoing.

“Action” means any demand, action, suit, countersuit, arbitration, inquiry, proceeding or investigation by any Person or any Governmental Authority or before any Governmental Authority or any arbitration or mediation tribunal.

“Affiliate” of any Person means any other Person that, directly or indirectly, controls, is controlled by, or is under common control with such first Person as of the date on which or at any time during the period for when such determination is being made. For purposes of this definition, “Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or other interests, by contract or otherwise, and the terms “Controlling” and “Controlled” have meanings correlative to the foregoing.

“Agent” has the meaning set forth in Section 5.02(b).

“Agreement” means this Separation and Distribution Agreement, including all of the Schedules hereto.

“Ancillary Agreements” has the meaning set forth in Section 2.13.

“Applicable Law” means any applicable law, statute, rule or regulation of any Governmental Authority or any outstanding order, judgment, injunction, ruling or decree by any Governmental Authority.

“Appurtenances” means, in respect of any Land, all privileges, rights, easements, servitudes, hereditaments and appurtenances and similar interests belonging to or for the benefit of such Land, including all easements and servitudes appurtenant to and for the benefit of any Land (a “Dominant Parcel”) for, and as the primary means of, access between, the Dominant Parcel and a public way, or for any other use upon which lawful use of the Dominant Parcel for the purposes for which it is presently being used is dependent, and all rights existing in and to any streets, alleys, passages and other rights-of-way included therein or adjacent thereto.

“Asset-Related Claims” means, in respect of any Asset, all claims of the owner against Third Parties relating to such Asset, whether choate or inchoate, known or unknown, absolute or contingent, disclosed or non-disclosed.

“Assets” means assets, properties and rights (including goodwill), wherever located (including in the possession of owners or Third Parties or elsewhere),

- (a) Real Property;
- (b) Tangible Personal Property;
- (c) Inventories;
- (d) Accounts Receivable;
- (e) Contractual Assets;
- (f) Governmental Authorizations;
- (g) Business Records;
- (h) Intangible Property Rights;
- (i) Insurance Benefits;
- (j) Asset-Related Claims; and
- (k) Deposit Rights.

“Authorized Auditor” has the meaning set forth in Section 11.01(c)(i).

“Authorizing Spinco” has the meaning set forth in Section 11.01(c)(i).

“Business Concern” means any corporation, company, limited liability company, partnership, joint venture, trust, unincorporated association or any other form of association.

“Business Day” means any day excluding (a) Saturday, Sunday and any other day which, in New York City is a legal holiday or (b) a day on which banks are authorized by Applicable Law to close in New York City.

“Business Records” means, in respect of any Person, all data and Records relating to such Person, including client and customer lists and Records, referral sources, research and development reports and Records, cost information, sales and pricing data, customer prospect lists, customer and vendor data, production reports and Records, service and warranty Records, equipment logs, operating guides and manuals, financial and accounting Records, personnel Records (subject to Applicable Law), creative materials, advertising materials, promotional materials, studies, reports, correspondence and other similar documents and records.

“Claim Notice” has the meaning set forth in Section 6.04(b).

“Claimant Party” has the meaning set forth in Section 9.02(a).

“Code” has the meaning set forth in the recitals hereto.

“Confidential Information” has the meaning set forth in Section 8.07(a).

“Consent” means any approval, consent, ratification, waiver or other authorization.

“Contract” means any contract, agreement, lease, purchase and/or commitment, license, consensual obligation, promise or undertaking (whether written or oral and whether express or implied) that is legally binding on any Person or any part of its property under Applicable Law, including all claims or rights against any Person, choses in action and similar rights, whether accrued or contingent with respect to any such contract, agreement, lease, purchase and/or commitment, license, consensual obligation, promise or undertaking, but excluding this Agreement and any Ancillary Agreement save as otherwise expressly provided in this Agreement or in any Ancillary Agreement.

“Contractual Asset” means, in respect of any Person, any Contract of, or relating to, such Person, any outstanding offer or solicitation made by, or to, such Person to enter into any Contract, and any promise or undertaking made by any other Person to such Person, whether or not legally binding.

“Corresponding Annual Report” has the meaning set forth in Section 11.01(d).

“Corresponding Assets” (a) with respect to HSN Spinco, any HSN Entity or the HSN Group, means the HSN Assets, (b) with respect to Interval Spinco, any Interval Entity or the Interval Group, means the Interval Assets, (c) with respect to TM Spinco, any TM Entity or the TM Group, means the TM Assets, (d) with respect to Tree Spinco, any Tree Entity or the Tree Group, means the Tree Assets and (e) with respect to IAC or the IAC Group, means the Retained Assets.

“Corresponding Business” (a) with respect to HSN Spinco, any HSN Entity or the HSN Group, means the Retailing Business, (b) with respect to Interval Spinco, any Interval Entity or the Interval Group, means the Vacations Business, (c) with respect to TM Spinco, any TM Entity or the TM Group, means the Ticketing Business, (d) with respect to Tree Spinco, any Tree Entity or the Tree Group, means the Lending and Real Estate Business and (e) with respect to IAC or the IAC Group, means the Remaining Business.

“Corresponding Distribution Ratio” (i) with respect to HSN Spinco, means the HSN Distribution Ratio, (ii) with respect to Interval Spinco, means the Interval Distribution Ratio, (iii) with respect to TM Spinco, means the TM Distribution Ratio and (iv) with respect to Tree Spinco, means the Tree Distribution Ratio.

“Corresponding Escrow Shares” has the meaning set forth in Section 4.03.

“Corresponding Group” (a) with respect to the Retailing Business, HSN Spinco or any HSN Entity, means the HSN Group, (b) with respect to the Vacations



Business, Interval Spinco or any Interval Entity, means the Interval Group, (c) with respect to the Ticketing Business, TM Spinco or any TM Entity, means the TM Group, (d) with respect to the Lending and Real Estate Business, Tree Spinco or any Tree Entity, means the Tree Group and (e) with respect to the Remaining Business, IAC or any Remaining IAC Entity, means the IAC Group.

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“Corresponding Group Balance Sheet” (a) with respect to the Retailing Business, HSN Spinco, any HSN Entity or the HSN Group, means the HSN Group Balance Sheet, (b) with respect to the Vacations Business, Interval Spinco, any Interval Entity or the Interval Group, means the Interval Group Balance Sheet, (c) with respect to the Ticketing Business, TM Spinco, any TM Entity or the TM Group, the TM Group Balance Sheet, and (d) with respect to the Lending and Real Estate Business, Tree Spinco, any Tree Entity or the Tree Group, means the Tree Group Balance Sheet.

“Corresponding Liabilities” (a) with respect to HSN Spinco, any HSN Entity or the HSN Group, means the HSN Liabilities, (b) with respect to Interval Spinco, any Interval Entity or the Interval Group, means the Interval Liabilities, (c) with respect to TM Spinco, any TM Entity or the TM Group, means the TM Liabilities, (d) with respect to Tree Spinco, any Tree Entity or the Tree Group, means the Tree Liabilities and (e) with respect to IAC or the IAC Group, means the Retained Liabilities.

“Corresponding Opening Balance Sheet” (a) with respect to the Retailing Business, HSN Spinco, any HSN Entity or the HSN Group, means the HSN Opening Balance Sheet, (b) with respect to the Vacations Business, Interval Spinco, any Interval Entity or the Interval Group, means the Interval Opening Balance Sheet, (c) with respect to the Ticketing Business, TM Spinco, any TM Entity or the TM Group, means the TM Opening Balance Sheet and (d) with respect to the Lending and Real Estate Business, Tree Spinco, any Tree Entity or the Tree Group, means the Tree Opening Balance Sheet.

“Corresponding Other Separate-cos Indemnified Parties” has the meaning set forth in Section 6.02.

“Corresponding Separate-co” (a) with respect to the Retailing Business, any HSN Entity or the HSN Group, means HSN Spinco, (b) with respect to the Vacations Business, any Interval Entity or the Interval Group, means Interval Spinco, (c) with respect to the Ticketing Business, any TM Entity or the TM Group, means TM Spinco, (d) with respect to the Lending and Real Estate Business, any Tree Entity or the Tree Group, means Tree Spinco and (e) with respect to the Remaining Business, any Remaining IAC Entity or the IAC Group, means IAC.

“Corresponding Spinco” (a) with respect to the Retailing Business, any HSN Entity or the HSN Group, means HSN Spinco, (b) with respect to the Vacations Business, any Interval Entity or the Interval Group, means Interval Spinco, (c) with respect to the Ticketing Business, any TM Entity or the TM Group, means TM Spinco and (d) with respect to the Lending and Real Estate Business, any Tree Entity or the Tree Group, means Tree Spinco.

“Deferred Beneficiary” has the meaning set forth in Section 3.01(b).

“Deferred Corresponding Asset” has the meaning set forth in Section 3.01(a).

“Deferred Excluded Asset” has the meaning set forth in Section 3.01(a).

“Deferred Spun Asset” has the meaning set forth in Section 3.01(a).

“Deferred Transactions” has the meaning set forth in Section 10.01(a)(ii).

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“Deferred Transfer Asset” has the meaning set forth in Section 3.01(a).

“Deposit Rights” means rights relating to deposits and prepaid expenses, claims for refunds and rights of set-off in respect thereof.

“DGCL” means the General Corporation Law of the State of Delaware.

“Disclosing Party” has the meaning set forth in Section 8.08.

“Dispute” has the meaning set forth in Section 9.02(a).

“Dispute Notice” has the meaning set forth in Section 9.02(a).

“Dispute Parties” has the meaning set forth in Section 9.02(a).

“Distribution Date” means the HSN Distribution Date, the Interval Distribution Date, the TM Distribution Date or the Tree Distribution Date, as applicable.

“Distribution Record Date” means the HSN Distribution Record Date, the Interval Distribution Record Date, the TM Distribution Record Date or the Tree Distribution Record Date, as applicable

“Distributions” means the HSN Distribution, the Interval Distribution, the TM Distribution and the Tree Distribution, and each of them a ‘Distribution.’”

“Effective Time” means (a) 9:00 a.m., New York City time, on the earliest to occur of one or more of the HSN Distribution Date, the Interval Distribution Date, the TM Distribution Date and the Tree Distribution Date if IAC determines to effect the applicable Distribution(s) prior to the opening of trading on NASDAQ or (b) otherwise, 11:59 p.m., New York City time, on such earliest date to occur.

“EHS Liabilities” means any Liability arising from or under any Environmental Law or Occupational Health and Safety Law.

“Employee Matters Agreement” means the Employee Matters Agreement among the Parties to be dated as of even date herewith.

“Encumbrance” means, with respect to any asset, mortgages, liens, hypothecations, pledges, charges, security interests or encumbrances of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under Applicable Law.

“Environmental Law” means any Applicable Law from any Governmental Authority (a) relating to the protection of the environment (including air, water, soil and natural resources) or (b) the use, storage, handling, release or disposal of Hazardous Substances.

“Escrow Agent” has the meaning set forth in Section 4.03(a).

“Escrow Agreement” has the meaning set forth in Section 4.03(a).

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“Exchange Act” means the United States Securities Exchange Act of 1934, as amended.

“Excluded Assets” has the meaning set forth in Section 2.09(a).

“GAAP” has the meaning set forth in Section 2.04(d).

“Governmental Authority” means any court, arbitration panel, governmental or regulatory authority, agency, stock exchange, commission or body.

“Governmental Authorization” means any Consent, license, certificate, franchise, registration or permit issued, granted, given or otherwise made available by, or under the authority of, any Governmental Authority or pursuant to any Applicable Law.

“Ground Lease” means any long-term lease (including any emphyteotic lease) of Land in which most of the rights and benefits comprising ownership of the Land and the Improvements thereon or to be constructed thereon, if any, and the Appurtenances thereto for the benefit thereof, are transferred to the tenant for the term thereof.

“Ground Lease Property” means, in respect of any Person, any Land, Improvement or Appurtenance of such Person that is subject to a Ground Lease.

“Group” means the IAC Group, the HSN Group, the Interval Group, the TM Group or the Tree Group, as the context requires.

“Guaranteed Entities” has the meaning set forth in Section 4.02(c).

“Guaranteed Group” has the meaning set forth in Section 4.02(c).

“Guaranteed Spinco” has the meaning set forth in Section 4.02(c).

“Guaranteeing Group” has the meaning set forth in Section 4.02(c).

“Guaranteeing Separate-co” has the meaning set forth in Section 4.02(c).

“Hazardous Substance” means any substance to the extent presently listed, defined, designated or classified as hazardous, toxic or radioactive under any applicable Environmental Law, including petroleum and any derivative or by-products thereof.

“HSN Assets” has the meaning set forth in Section 2.06.

“HSN Claims” has the meaning set forth in Section 6.01(c).

“HSN Common Stock” means the common stock, par value \$0.01 per share, of HSN Spinco.

“HSN Distribution” means the distribution on the HSN Distribution Date, to holders of record of shares of IAC Common Stock and IAC Class B Common Stock as of the HSN Distribution Record Date, of the HSN Common Stock owned by IAC on the basis of a

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fraction of a share of HSN Common Stock equal to the HSN Distribution Ratio for every one share of IAC Common Stock or IAC Class B Common Stock.

“HSN Distribution Date” means the date on which IAC distributes all of the issued and outstanding shares of HSN Common Stock to the holders of IAC Common Stock and IAC Class B Common Stock.

“HSN Distribution Ratio” means 1/5, subject to adjustment pursuant to Section 5.02(a).

“HSN Distribution Record Date” means such date as may be determined by the IAC Board as the record date for the HSN Distribution.

“HSN Effective Time Cash Balance” has the meaning set forth in Section 4.04(c).

“HSN Entities” means those Business Concerns forming part of the IAC Group which are identified on Schedule 2.06(b) and which on and after the Effective Time form part of the HSN Group.

“HSN Group” means HSN Spinco, the HSN Entities and each other Person (other than any member of any other Group) that is a direct or indirect Subsidiary of HSN Spinco immediately after the Effective Time, and each Person that becomes a Subsidiary of HSN Spinco after the Effective Time.

“HSN Group Balance Sheet” has the meaning set forth in Section 2.06(c).

“HSN Liabilities” has the meaning set forth in Section 2.10.

“HSN Opening Balance Sheet” has the meaning set forth in Section 2.06(e).

“HSN Releasers” has the meaning set forth in Section 6.01(c).

“HSN Spinco” has the meaning set forth in the preamble hereto.

“HSN Target Cash Balance” has the meaning set forth in Section 4.04(c).

“IAC” has the meaning set forth in the preamble hereto.

“IAC Auditor” has the meaning set forth in Section 11.01(a).

“IAC Board” has the meaning set forth in the recitals hereto.

“IAC Claims” has the meaning set forth in Section 6.01(e).

“IAC Class B Common Stock” has the meaning set forth in the recitals hereto.

“IAC Common Stock” has the meaning set forth in the recitals hereto.

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“IAC Group” means IAC, its Subsidiaries (subject to Section 1.04(b), other than any member of any Spinco Group) and their respective domestic and international businesses, assets and liabilities.

“IAC Notes” has the meaning set forth in the recitals hereto.

“IAC Record Date Share Number” with respect to any Distribution means the aggregate number of shares of IAC Common Stock and IAC Class B Common Stock outstanding on the applicable Distribution Record Date.

“IAC Releasers” has the meaning set forth in Section 6.01(e).

“Improvements” means, in respect of any Land, all buildings, structures, plants, fixtures and improvements located on such Land, including those under construction.

“Indemnified Party” has the meaning set forth in Section 6.04(a).

“Indemnifying Party” has the meaning set forth in Section 6.04(b).

“Information” means any information, whether or not patentable or copyrightable, in written, oral, electronic or other tangible or intangible forms, stored in any medium, including studies, reports, test procedures, research, records, books, contracts, instruments, surveys, discoveries, ideas, concepts, know-how, techniques, manufacturing techniques, manufacturing variables, designs, specifications, drawings, blueprints, diagrams, models, prototypes, samples, products, product plans, flow charts, data, computer data, disks, diskettes, tapes, computer programs or other software, marketing plans, customer information, customer services, supplier information, communications by or to attorneys (including attorney-client privileged communications), memos and other materials prepared by attorneys or under their direction (including attorney work product), and other technical, financial, employee or business information or data.

“Insurance Benefits” means, in respect of any Asset or Liability, all insurance benefits, including rights to Insurance Proceeds, arising from or relating to such Asset or Liability.

“Insurance Proceeds” means those monies (in each case net of any costs or expenses incurred in the collection thereof and net of any applicable premium adjustments (including reserves and retrospectively rated premium adjustments)):

- (a) received by an insured from an insurance carrier; or
- (b) paid by an insurance carrier on behalf of the insured.

“Intangible Property Rights” means, in respect of any Person, all intangible rights and property of such Person, including IT Assets, going concern value and goodwill.

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“Intercompany Accounts” means all balances related to indebtedness, including any intercompany indebtedness, loan, guaranty, receivable, payable or other account between a member of any Group, on the one hand, and a member of any other Group, on the other hand.

“Interval Acquisition Corp.” means Interval Acquisition Corp., a Delaware corporation and wholly owned subsidiary of IAC that, at the time of the Interval Distribution, will be a wholly owned subsidiary of Interval Spinco. “Interval Assets” has the meaning set forth in Section 2.05.

“Interval Claims” has the meaning set forth in Section 6.01(b).

“Interval Common Stock” means the common stock, par value \$0.01 per share, of Interval Spinco.

“Interval Distribution” means the distribution on the Interval Distribution Date, to holders of record of shares of IAC Common Stock and IAC Class B Common Stock as of the Interval Distribution Record Date, of the Interval Common Stock owned by IAC on the basis of a fraction of a share of Interval Common Stock equal to the Interval Distribution Ratio for every one share of IAC Common Stock or IAC Class B Common Stock.

“Interval Distribution Date” means the date on which IAC distributes all of the issued and outstanding shares of Interval Common Stock to the holders of IAC Common Stock and IAC Class B Common Stock.

“Interval Distribution Ratio” means 1/5, subject to adjustment pursuant to Section 5.02(a).

“Interval Distribution Record Date” means such date as may be determined by the IAC Board as the record date for the Interval Distribution.

“Interval Effective Time Cash Balance” has the meaning set forth in Section 4.04(b).

“Interval Entities” means those Business Concerns forming part of the IAC Group which are identified on Schedule 2.05(b) and which on and after the Effective Time form part of the Interval Group.

“Interval Group” means Interval Spinco, the Interval Entities and each other Person (other than any member of any other Group) that is a direct or indirect Subsidiary of Interval Spinco immediately after the Effective Time, and each Person that becomes a Subsidiary of Interval Spinco after the Effective Time.

“Interval Group Balance Sheet” has the meaning set forth in Section 2.05(c).

“Interval Liabilities” has the meaning set forth in Section 2.10.

“Interval Opening Balance Sheet” has the meaning set forth in Section 2.05(e).

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“Interval Releasers” has the meaning set forth in Section 6.01(b).

“Interval Spinco” has the meaning set forth in the preamble hereto.

“Interval Target Cash Balance” has the meaning set forth in Section 4.04(b).

“Inventories” means, in respect of any Person, all inventories of such Person wherever located, including all finished goods, (whether or not held at any location or facility of such Person or in transit to or from such Person), work in process, raw materials, spare parts and all other materials and supplies to be used or consumed by the Person in production of finished goods.

“IT Assets” means computers, computer software, firmware, middleware, servers, workstations, routers, hubs, switches, data communications lines, all other information technology equipments and all associated documentation.

“Land” means, in respect of any Person, all parcels and tracts of land in which the Person has an ownership interest.

“Lending and Real Estate Business” means (a) the businesses and operations of Tree Spinco and its subsidiaries described in the Information Statement included as an exhibit to Tree Spinco’s Registration Statement, (b) any other business conducted primarily through the use of the Tree Assets prior to the Effective Time and (c) the businesses and operations of Business Concerns acquired or established by or for Tree Spinco or any of its Subsidiaries after the date of this Agreement.

“Liberty Spinco Agreement” means that certain Spinco Agreement, dated as of May 13, 2008, among IAC, Barry Diller, Liberty Media Corporation and certain subsidiaries of Liberty Media Corporation that hold IAC Common Stock and/or IAC Class B Common Stock.

“Liberty Spinco Assumption Agreement” means an agreement substantially in the form of Exhibit 5 to the Liberty Spinco Agreement.

“Liberty Registration Rights Agreement” means an agreement substantially in the form of Exhibit 4 to the Liberty Spinco Agreement.

“Liability” means, with respect to any Person, any and all losses, claims, charges, debts, demands, actions, causes of action, suits, damages, obligations, payments, costs and expenses, sums of money, accounts, reckonings, bonds, specialties, indemnities and similar obligations, exoneration covenants, contracts, controversies, agreements, promises, doings, omissions, variances, guarantees, make whole agreements and similar obligations, and other liabilities and requirements, including all contractual obligations, whether absolute or contingent, matured or unmatured, liquidated or unliquidated, accrued or unaccrued, known or unknown, joint or several, whenever arising, and including those arising under any Applicable Law, Action, threatened or contemplated Action (including the costs and expenses of demands, assessments, judgments, settlements and compromises relating thereto and attorneys’ fees and any and all costs and expenses, whatsoever reasonably incurred in investigating, preparing or defending against any such Actions or threatened or contemplated Actions) or Order of any

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Governmental Authority or any award of any arbitrator or mediator of any kind, and those arising under any contract, commitment or undertaking, in each case, whether or not recorded or reflected or otherwise disclosed or required to be recorded or reflected or otherwise disclosed, on the books and records or financial statements of any Person, including any Specified Financial Liability, EHS Liability or Liability for Taxes.

“NASDAQ” means the Nasdaq Stock Market.

“New IAC Integrated Warrant” has the meaning set forth in Section 5.05(a)(i).

“Non-IAC Indemnified Parties” has the meaning set forth in Section 6.03.

“Non-IAC Parties” has the meaning set forth in Section 6.01(e).

“Non-Interval Parties” has the meaning set forth in Section 6.01(b).

“Non-HSN Parties” has the meaning set forth in Section 6.01(c).

“Non-Tree Parties” has the meaning set forth in Section 6.01(d).

“Non-TM Parties” has the meaning set forth in Section 6.01(a).

“Notice Period” has the meaning set forth in Section 6.04(b).

“Occupational Health and Safety Law” means any Applicable Law designed to provide safe and healthful working conditions and to reduce occupational safety and health hazards, and any program, whether governmental or private (such as those promulgated or sponsored by industry associations and insurance companies), designed to provide safe and healthful working conditions.

“Old IAC Integrated Warrant” means the outstanding warrant to purchase shares of IAC Common Stock identified on Schedule 1.01(a).

“Order” means any order, injunction, judgment, decree, ruling, assessment or arbitration award of any Governmental Authority or arbitrator.

“Ordinary Course of Business” means any action taken by a Person that is in the ordinary course of the normal, day-to-day operations of such Person and is consistent with the past practices of such Person.

“Parties” has the meaning set forth in the preamble hereto.

“Person” means any individual, Business Concern or Governmental Authority.

“Post-Record Date IAC Shares” has the meaning set forth in Section 5.02(a)

“Potential Contributor” has the meaning set forth in Section 6.06(a).

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“Prime Rate” means the rate which JPMorgan Chase & Co. (or any successor thereto or other major money center commercial bank agreed to by the Parties hereto) announces from time to time as its prime lending rate, as in effect from time to time.

“Prospectus” with respect to a Registration Statement means the prospectus forming a part of such Registration Statement, as the same may be amended or supplemented from time to time. A Prospectus may, but need not, be a joint prospectus of all of the Spinco's.

“Providing Party” has the meaning set forth in Section 8.08.

“Real Property” means any Land and Improvements and all Appurtenances thereto and any Ground Lease Property.

“Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

“Registration Statement” means, for each Spinco, the Registration Statement on Form S-1 first filed by such Spinco with the SEC on August [ ], 2008 (together with all amendments and supplements thereto) in connection with the registration under the Securities Act of such Spinco's Spinco Common Stock.

“Regulation S-K” means Regulation S-K of the General Rules and Regulations promulgated by the SEC pursuant to the Securities Act.

“Relevant Time” means (a) as between any two Spinco's, on the date of the later Distribution Date to occur with respect to such Spinco's if such Distribution Dates are not the same date or, otherwise, on such Distribution Date and (b) as between IAC and any Spinco, on the Distribution Date with respect to such Spinco, in either such case (i) 9:00 a.m., New York City time, if IAC determines to effect the applicable Distribution(s) prior to the opening of trading on NASDAQ or (b) otherwise, 11:59 p.m., New York City time, on such earliest date to occur.

“Remaining Business” means all IAC Businesses other than the Spun Businesses.

“Remaining IAC Entity” means any Business Concern that is a member of the IAC Group on and after the Effective Time.

“Representatives” means, with respect to any Person, any of such Person's directors, officers, employees, agents, consultants, advisors, accountants or attorneys.

“Requesting Party” has the meaning set forth in Section 8.01(a).

“Response” has the meaning set forth in Section 9.02(a).

“Responding Parties” has the meaning set forth in Section 9.02(a).

“Responsible Group” has the meaning set forth in Section 3.02(b).

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“Responsible Separate-co” has the meaning set forth in Section 3.02.

“Retailing Business” means (a) the businesses and operations of HSN Spinco and its Subsidiaries as described in the Prospectus forming a part of HSN Spinco's Registration Statement, (b) any other business conducted primarily through the use of the HSN Assets prior to the Effective Time and (c) the businesses and operations of Business Concerns acquired or established by or for HSN Spinco or any of its Subsidiaries after the date of this Agreement.

“Retained Liabilities” has the meaning set forth in Section 2.10.

“Retaining Person” has the meaning set forth in Section 3.01(b).

“SEC” means the Securities and Exchange Commission.

“Securities Act” means the United States Securities Act of 1933, as amended.

“Senior Party Representatives” has the meaning set forth in Section 9.02(a).

“Separate-cos” has the meaning set forth in the preamble hereto.

“Separation” has the meaning set forth in the recitals hereto.

“Separation Transactions” means the transactions to effect the Separation as described in the Transactions Memo and, in the singular, means any one of them.

“Shared Liability” of a Spinco means any Liability from, relating to, arising out of, or derivative of any matter, claim or litigation, whether actual or potential, associated with any securities law litigation relating to any public disclosure (or absence of public disclosure) with respect to such Spinco's Spun Business or the Spun Entities in such Spinco's Corresponding Group made by IAC prior to the Effective Time, including the fees and expenses of outside counsel retained by IAC in connection with the defense and/or settlement of any such matter. For purposes of this definition, the phrase “securities law litigation” shall include claims alleging any untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact in alleged violation of the Securities Act, the Exchange Act or any similar state law and any claims premised on, related to or derivative of such alleged statements, omissions or violations, whether payable to any current, past or future holders of IAC securities or any Spinco securities, to any of the co-defendants in such action or to any Governmental Authority. Notwithstanding anything in Section 6.06 to the contrary, the amount of any Shared Liability shall be net of any insurance proceeds actually recovered by or on behalf of any member of any Group.

“Specified Financial Liabilities” means, in respect of any Person, all liabilities, obligations, contingencies, instruments and other Liabilities of a financial nature with Third Parties of, or relating to, such Person, including any of the following:

- (a) foreign exchange contracts;

- (b) letters of credit;

- (c) guarantees of Third Party loans;
- (d) surety bonds (excluding surety for workers' compensation self-insurance);
- (e) interest support agreements on Third Party loans;
- (f) performance bonds or guarantees issued by Third Parties;
- (g) swaps or other derivatives contracts;
- (h) recourse arrangements on the sale of receivables or notes; and
- (i) indemnities for damages for any breach of, or any inaccuracy in, any representation or warranty or any breach of, or failure to perform or comply with, any covenant, undertaking or obligation.

“Spinco” has the meaning set forth in the preamble hereto.

“Spinco Auditor” has the meaning set forth in Section 11.01(a).

“Spinco Common Stock” means the HSN Common Stock, the Interval Common Stock, the TM Common Stock and/or the Tree Common Stock, as applicable.

“Spinco Common Stock Escrow Account” has the meaning set forth in Section 4.03.

“Spinco Group” means any of the HSN Group, the Interval Group, the TM Group and the Tree Group.

“Spun Businesses” has the meaning set forth in the recitals hereto.

“Spun Assets” means the HSN Assets, the Interval Assets, the TM Assets and the Tree Assets.

“Spun Entities” means the HSN Entities, the Interval Entities, the TM Entities and the Tree Entities.

“Spun Liabilities” means the HSN Liabilities, the Interval Liabilities, the TM Liabilities and the Tree Liabilities.

“Subsidiary” of any Person means any corporation, partnership, limited liability entity, joint venture or other organization, whether incorporated or unincorporated, of which a majority of the total voting power of capital stock or other interests entitled (without the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof, is at the time owned or controlled, directly or indirectly, by such Person.

“Tangible Personal Property” means, in respect of any Person, all machinery, equipment, tools, furniture, office equipment, supplies, materials, vehicles and other items of

tangible personal or movable property (other than Inventories and IT Assets) of every kind and wherever located that are owned or leased by the Person, together with any express or implied warranty by the manufacturers, sellers or lessors of any item or component part thereof and all maintenance Records and other documents relating thereto.

“Tax” means Income Taxes and Other Taxes as defined in the Tax Sharing Agreement.

“Tax Sharing Agreement” means the Tax Sharing Agreement among the Parties to be dated as of even date herewith.

“Third Party” means a Person (a) that is not a Party to this Agreement, other than a member of any Group and (b) that is not an Affiliate thereof.

“Third Party Claim” has the meaning set forth in Section 6.04(b).

“Third Party Consent” has the meaning set forth in Section 2.11.

“Ticketing Business” means (a) the businesses and operations of TM Spinco and its subsidiaries as described in the Prospectus forming a part of TM Spinco's Registration Statement, (b) any other business conducted primarily through the use of the TM Assets prior to the Effective Time and (c) the businesses and operations of Business Concerns acquired or established by or for TM Spinco or any of its Subsidiaries after the date of this Agreement.

“TM Assets” has the meaning set forth in Section 2.04.

“TM Claims” has the meaning set forth in Section 6.01(a).

“TM Common Stock” means the common stock, par value \$0.01 per share, of TM Spinco.

“TM Distribution” means the distribution on the TM Distribution Date, to holders of record of shares of IAC Common Stock and IAC Class B Common Stock as of the TM Distribution Record Date, of the TM Common Stock owned by IAC on the basis of a fraction of a share of TM Common Stock equal to the TM Distribution Ratio for every one share of IAC Common Stock or IAC Class B Common Stock.

“TM Distribution Date” means the date on which IAC distributes all of the issued and outstanding shares of TM Common Stock to the holders of IAC Common Stock and IAC Class B Common Stock.

“TM Distribution Ratio” means 1/5, subject to adjustment pursuant to Section 5.02(a).

“TM Distribution Record Date” means such date as may be determined by the IAC Board as the record date for the TM Distribution.

“TM Effective Time Cash Balance” has the meaning set forth in Section 4.04(a).

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“TM Entities” means those Business Concerns forming part of the IAC Group which are identified on Schedule 2.04(b) and which on and after the Effective Time form part of the TM Group.

“TM Group” means TM Spinco, the TM Entities and each other Person (other than any member of any other Group) that is a direct or indirect Subsidiary of TM Spinco immediately after the Effective Time, and each Person that becomes a Subsidiary of TM Spinco after the Effective Time.

“TM Group Balance Sheet” has the meaning set forth in Section 2.04(c).

“TM Liabilities” has the meaning set forth in Section 2.10.

“TM Opening Balance Sheet” has the meaning set forth in Section 2.04(e).

“TM Releasors” has the meaning set forth in Section 6.01(a).

“TM Spinco” has the meaning set forth in the preamble hereto.

“TM Target Cash Balance” has the meaning set forth in Section 4.04(a).

“Transfer Impediment” has the meaning set forth in Section 3.01(a).

“Transactions Memo” has the meaning set forth in the recitals hereto.

“Transition Services Agreement” means the Transition Services Agreement among the Parties to be dated as of even date herewith.

“Tree Assets” has the meaning set forth in Section 2.07.

“Tree Claims” has the meaning set forth in Section 6.01(d).

“Tree Common Stock” means the common stock, par value \$0.01 per share, of Tree Spinco.

“Tree Distribution” means the distribution on the Tree Distribution Date, to holders of record of shares of IAC Common Stock and IAC Class B Common Stock as of the Tree Distribution Record Date, of the Tree Common Stock owned by IAC on the basis of a fraction of a share of Tree Common Stock equal to the Tree Distribution Ratio for every one share of IAC Common Stock or IAC Class B Common Stock.

“Tree Distribution Date” means the date on which IAC distributes all of the issued and outstanding shares of Tree Common Stock to the holders of IAC Common Stock and IAC Class B Common Stock.

“Tree Distribution Ratio” means 1/30, subject to adjustment pursuant to Section 5.02(a).

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“Tree Distribution Record Date” means such date as may be determined by the IAC Board as the record date for the Tree Distribution.

“Tree Effective Time Cash Balance” has the meaning set forth in Section 4.04(d).

“Tree Entities” means those Business Concerns forming part of the IAC Group which are identified on Schedule 2.07(b) and which on and after the Effective Time form part of the Tree Group.

“Tree Group” means Tree Spinco, the Tree Entities and each other Person (other than any member of any other Group) that is a direct or indirect Subsidiary of Tree Spinco immediately after the Effective Time, and each Person that becomes a Subsidiary of Tree Spinco after the Effective Time.

“Tree Group Balance Sheet” has the meaning set forth in Section 2.07(c).

“Tree Liabilities” has the meaning set forth in Section 2.10.

“Tree Opening Balance Sheet” has the meaning set forth in Section 2.07(e).

“Tree Releasors” has the meaning set forth in Section 6.01(d).

“Tree Spinco” has the meaning set forth in the preamble hereto.

“Tree Target Cash Balance” has the meaning set forth in Section 4.04(d).

“Unreleased Group” has the meaning set forth in Section 3.02.

“Unreleased Liabilities” has the meaning set forth in Section 3.02.

“Unreleased Person” has the meaning set forth in Section 3.02.

“Unreleased Separate-co” has the meaning set forth in Section 3.02.

“Vacations Business” means (a) the businesses and operations of Interval Spinco and its subsidiaries as described in the Prospectus forming a part of Interval Spinco’s Registration Statement, (b) any other business conducted primarily through the use of the Interval Assets prior to the Effective Time and (c) the businesses and operations of Business Concerns acquired or established by or for Interval Spinco or any of its Subsidiaries after the date of this Agreement.

“Warrant Share Number” has the meaning set forth in Section 5.05(a)(i).

1.02. Schedules. The following schedules are attached to this Agreement and form a part hereof:

Schedule 1.01(a)	Old IAC Integrated Warrant
Schedule 2.04(a)	TM Assets
Schedule 2.04(b)	TM Entities

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Schedule 2.04(c)	TM Group Balance Sheet
Schedule 2.05(a)	Interval Assets
Schedule 2.05(b)	Interval Entities
Schedule 2.05(c)	Interval Group Balance Sheet
Schedule 2.06(a)	HSN Assets
Schedule 2.06(b)	HSN Entities
Schedule 2.06(c)	HSN Group Balance Sheet
Schedule 2.07(a)	Tree Assets
Schedule 2.07(b)	Tree Entities
Schedule 2.07(c)	Tree Group Balance Sheet
Schedule 2.09(a)	Excluded Assets
Schedule 2.10(a)	TM Liabilities
Schedule 2.10(b)	Interval Liabilities
Schedule 2.10(c)	HSN Liabilities
Schedule 2.10(d)	Tree Liabilities
Schedule 2.10(e)	Retained Liabilities
Schedule 2.14(a)	IAC Resignation Exceptions

1.03. Effective Time; Suspension. (a) This Agreement shall be effective as of the Effective Time.

(b) Notwithstanding Section 1.03(a) above, as between any two of the Parties, the provisions of, and the obligations under, this Agreement shall be suspended as between such Parties until the applicable Relevant Time (and, as the context requires, references to the Effective Time shall be deemed to refer to the Relevant Time), other than Sections 2.01, 2.02, 2.03, 2.04, 2.05, 2.06, 2.07, 2.09 and 2.10, each of which shall be effective as of the Effective Time. For the avoidance of doubt, in the event that one or more of the Distributions shall not be effected on the first Distribution Date to occur, then for purposes of determining the rights and obligations between IAC and any Spinco the Spinco Common Stock of which shall have been distributed on such date, until the Distribution Date, if any, for each Spinco not so distributed, such undistributed Spinco and the members of its Corresponding Group shall continue to be treated as members of the IAC Group and shall not, upon its Distribution Date, bear any Liability for any Retained Liabilities.

## ARTICLE II THE SEPARATION

2.01. Separation. To the extent not already complete, IAC and the Spinco agree to implement the Separation and to cause the Corresponding Businesses of each Spinco to be transferred to such Spinco and its Subsidiaries and the Remaining Business to be held by IAC and its Subsidiaries (other than the Spinco and their Subsidiaries) as of the Effective Time, on the terms and subject to the conditions set forth in this Agreement. The Parties acknowledge that the Separation is intended to result in each Spinco, directly or indirectly, operating its Corresponding Business, owning its Corresponding Assets and assuming its Corresponding Liabilities as set forth in this Article II.

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2.02. Implementation. The Separation shall be completed in accordance with the agreed general principles, objectives and other provisions set forth in this Article II and shall be implemented in the following manner:

- (a) through the completion of the steps described in the Transactions Memo;
- (b) through the transfer from time to time following the Effective Time of the Deferred Transfer Assets as described in Article III;
- (c) through the completion from time to time following the Effective Time of the Deferred Transactions, as described in Section 10.01(a); and
- (d) through the performance by the Parties of all other provisions of this Agreement.

2.03. Transfer of Spun Assets; Assumption of Spun Liabilities. On the terms and subject to the conditions set forth in this Agreement, and in furtherance of the Separation, with effect as of the Effective Time:

(a) To the extent not already complete, IAC agrees to cause the Corresponding Assets of each Spinco to be contributed, assigned, transferred, conveyed and delivered, directly or indirectly, to such Spinco, and each Spinco agrees to accept all of its Corresponding Assets and all of the rights, title and interest in and to all its Corresponding Assets owned, directly or indirectly, by IAC which, except with respect to Deferred Corresponding Assets and Unreleased Liabilities, will result in such Spinco owning, directly or indirectly, its Corresponding Business.

(b) Each Spinco agrees to accept, assume and faithfully perform, discharge and fulfill all of its Corresponding Liabilities in accordance with their respective terms.

2.04. TM Assets. For the purposes of this Agreement, “TM Assets” shall mean, without duplication, those Assets whether now existing or hereinafter acquired, used or contemplated to be used or held for use exclusively or primarily in the ownership, operation or conduct of the Ticketing Business or relating exclusively or primarily to the Ticketing Business or to a TM Entity including the following:

(a) all Assets expressly identified in this Agreement or in any Ancillary Agreement or in any Schedule hereto or thereto, including those, if any, listed on Schedule 2.04(a), as Assets to be transferred to, or retained by, TM Spinco or any other member of the TM Group;

(b) the outstanding capital stock, units or other equity interests of the TM Entities, as listed on Schedule 2.04(b), and the Assets owned by such TM Entities;



(c) all Assets properly reflected on Schedule 2.04(c) (the “TM Group Balance Sheet”), excluding Assets disposed of by IAC or any other Subsidiary or entity controlled by IAC subsequent to the date of the TM Group Balance Sheet;

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(d) all Assets that have been written off, expensed or fully depreciated by IAC or any Subsidiary or entity controlled by IAC that, had they not been written off, expensed or fully depreciated, would have been reflected on the TM Group Balance Sheet in accordance with accounting principles generally accepted in the United States (“GAAP”);

(e) all Assets acquired by IAC or any Subsidiary or entity controlled by IAC after the date of the TM Group Balance Sheet and that would be reflected on the balance sheet of TM Spinco as of the Effective Time (the “TM Opening Balance Sheet”), if such balance sheet were prepared in accordance with GAAP; and

(f) all Assets transferred to TM Spinco or any member of the TM Group pursuant to Section 10.01(a); provided, however, that any such transfer shall take effect under Section 10.01(a) and not under this Section 2.04.

Notwithstanding the foregoing, there shall be excluded from the definition of TM Assets under this Section 2.04 Business Records to the extent they are included in or primarily relate to any Excluded Asset or Retained Liability or the Remaining Business or their transfer is prohibited by Applicable Law or by agreements between any other Separate-co or any member of another Separate-co’s Corresponding Group and Third Parties or otherwise would subject any other Separate-co or any member of any other Corresponding Group to liability for such transfer. Access to such excluded Business Records shall be governed by Article VIII.

2.05. Interval Assets. For the purposes of this Agreement, “Interval Assets” shall mean, without duplication, those Assets whether now existing or hereinafter acquired, used or contemplated to be used or held for use exclusively or primarily in the ownership, operation or conduct of the Vacations Business or relating exclusively or primarily to the Vacation Business or to an Interval Entity including the following:

(a) all Assets expressly identified in this Agreement or in any Ancillary Agreement or in any Schedule hereto or thereto, including those, if any, listed on Schedule 2.05(a), as Assets to be transferred to, or retained by, Interval Spinco or any other member of the Interval Group;

(b) the outstanding capital stock, units or other equity interests of the Interval Entities, as listed on Schedule 2.05(b), and the Assets owned by such Interval Entities;

(c) all Assets properly reflected on Schedule 2.05(c) (the “Interval Group Balance Sheet”), excluding Assets disposed of by IAC or any other Subsidiary or entity controlled by IAC subsequent to the date of the Interval Group Balance Sheet;

(d) all Assets that have been written off, expensed or fully depreciated by IAC or any Subsidiary or entity controlled by IAC that, had they not been written off, expensed or fully depreciated, would have been reflected on the Interval Group Balance Sheet in accordance with GAAP;

(e) all Assets acquired by IAC or any Subsidiary or entity controlled by IAC after the date of the Interval Group Balance Sheet and that would be reflected on the balance

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sheet of Interval Spinco as of the Effective Time (the “Interval Opening Balance Sheet”), if such balance sheet were prepared in accordance with GAAP; and

(f) all Assets transferred to Interval Spinco or any member of the Interval Group pursuant to Section 10.01(a); provided, however, that any such transfer shall take effect under Section 10.01(a) and not under this Section 2.05.

Notwithstanding the foregoing, there shall be excluded from the definition of Interval Assets under this Section 2.05 Business Records to the extent they are included in or primarily relate to any Excluded Asset or Retained Liability or the Remaining Business or their transfer is prohibited by Applicable Law or by agreements between any other Separate-co or any member of another Separate-co’s Corresponding Group and Third Parties or otherwise would subject any other Separate-co or any member of any other Corresponding Group to liability for such transfer. Access to such excluded Business Records shall be governed by Article VIII.

2.06. HSN Assets. For the purposes of this Agreement, “HSN Assets” shall mean, without duplication, those Assets whether now existing or hereinafter acquired, used or contemplated to be used or held for use exclusively or primarily in the ownership, operation or conduct of the Retailing Business or relating exclusively or primarily to the Retailing Business or to an HSN Entity including the following:

(a) all Assets expressly identified in this Agreement or in any Ancillary Agreement or in any Schedule hereto or thereto, including those, if any, listed on Schedule 2.06(a), as Assets to be transferred to, or retained by, HSN Spinco or any other member of the HSN Group;

(b) the outstanding capital stock, units or other equity interests of the HSN Entities, as listed on Schedule 2.06(b), and the Assets owned by such HSN Entities;

(c) all Assets properly reflected on Schedule 2.06(c) (the “HSN Group Balance Sheet”), excluding Assets disposed of by IAC or any other Subsidiary or entity controlled by IAC subsequent to the date of the HSN Group Balance Sheet;

(d) all Assets that have been written off, expensed or fully depreciated by IAC or any Subsidiary or entity controlled by IAC that, had they not been written off, expensed or fully depreciated, would have been reflected on the HSN Group Balance Sheet in accordance with GAAP;

(e) all Assets acquired by IAC or any Subsidiary or entity controlled by IAC after the date of the HSN Group Balance Sheet and that would be reflected on the balance sheet of HSN as of the Effective Time (the “HSN Opening Balance Sheet”), if such balance sheet were prepared in accordance with GAAP; and

(f) all Assets transferred to HSN Spinco or any member of the HSN Group pursuant to Section 10.01(a); provided, however, that any such transfer shall take effect under Section 10.01(a) and not under this Section 2.06.

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Notwithstanding the foregoing, there shall be excluded from the definition of HSN Assets under this Section 2.06 Business Records to the extent they are

included in or primarily relate to any Excluded Asset or Retained Liability or the Remaining Business or their transfer is prohibited by Applicable Law or by agreements between any other Separate-co or any member of another Separate-co's Corresponding Group and Third Parties or otherwise would subject any other Separate-co or any member of any other Corresponding Group to liability for such transfer. Access to such excluded Business Records shall be governed by Article VIII.

2.07. Tree Assets. For the purposes of this Agreement, "Tree Assets" shall mean, without duplication, those Assets whether now existing or hereinafter acquired, used or contemplated to be used or held for use exclusively or primarily in the ownership, operation or conduct of the Lending and Real Estate Business or relating exclusively or primarily to the Lending and Real Estate Business or to a Tree Entity including the following:

- (a) all Assets expressly identified in this Agreement or in any Ancillary Agreement or in any Schedule hereto or thereto, including those, if any, listed on Schedule 2.07(a), as Assets to be transferred to, or retained by, Tree Spinco or any other member of the Tree Group;
- (b) the outstanding capital stock, units or other equity interests of the Tree Entities, as listed on Schedule 2.07(b), and the Assets owned by such Tree Entities;
- (c) all Assets properly reflected on Schedule 2.07(c) (the "Tree Group Balance Sheet"), excluding Assets disposed of by IAC or any other Subsidiary or entity controlled by IAC subsequent to the date of the Tree Group Balance Sheet;
- (d) all Assets that have been written off, expensed or fully depreciated by IAC or any Subsidiary or entity controlled by IAC that, had they not been written off, expensed or fully depreciated, would have been reflected on the Tree Group Balance Sheet in accordance with GAAP;
- (e) all Assets acquired by IAC or any Subsidiary or entity controlled by IAC after the date of the Tree Group Balance Sheet and that would be reflected on the balance sheet of Tree Spinco as of the Effective Time (the "Tree Opening Balance Sheet"), if such balance sheet were prepared in accordance with GAAP; and
- (f) all Assets transferred to Tree Spinco or any member of the Tree Group pursuant to Section 10.01(a); provided, however, that any such transfer shall take effect under Section 10.01(a) and not under this Section 2.07.

Notwithstanding the foregoing, there shall be excluded from the definition of Assets under this Section 2.07 Business Records to the extent they are included in or primarily relate to any Excluded Asset or Retained Liability or the Remaining Business or their transfer is prohibited by Applicable Law or by agreements between any other Separate-co or any member of another Separate-co's Corresponding Group and Third Parties or otherwise would subject any other Separate-co or any member of any other Corresponding Group to liability for such transfer. Access to such excluded Business Records shall be governed by Article VIII.

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2.08. Deferred Spun Assets. Notwithstanding anything to the contrary contained in Section 2.04, 2.05, 2.06 or 2.07 or elsewhere in this Agreement, the Spun Assets shall not include any Deferred Spun Assets. The transfer to a Spinco or its Corresponding Group of any such Deferred Spun Asset shall only be completed at the time, in the manner and subject to the conditions set forth in Article III.

2.09. Excluded Assets. (a) Notwithstanding anything to the contrary contained in Section 2.04, 2.05, 2.06 or 2.07 or elsewhere in this Agreement, the following Assets of IAC (or of any other relevant member of the IAC Group) that would otherwise be included among the Corresponding Assets of a Spinco shall not be transferred to such Spinco (or any other member of its Corresponding Group), shall not form part of its Corresponding Assets and shall remain the exclusive property of IAC (or the relevant member of the IAC Group) on and after the Effective Time (the "Excluded Assets"):

- (i) any Asset expressly identified on Schedule 2.09(a); and
- (ii) any Asset transferred to IAC or to any other relevant member of the IAC Group pursuant to Section 10.01(a); provided, however, that any such transfers shall take effect under Section 10.01(a) and not under this Section 2.09.

(b) Notwithstanding anything to the contrary in this Agreement, Excluded Assets shall not include Deferred Excluded Assets. The transfer to IAC (or to the relevant member of the IAC Group) or to another Spinco (or to the relevant member of its Corresponding Group) of any such Asset shall be completed at the time, in the manner and subject to the conditions set forth in Article III.

2.10. Liabilities. For the purposes of this Agreement, Liabilities shall be identified as "TM Liabilities," "Interval Liabilities," "HSN Liabilities," "Tree Liabilities" or "Retained Liabilities" under the following principles:

- (a) any Liability which is expressly identified on Schedule 2.10(a) shall be a TM Liability;
- (b) any Liability which is expressly identified on Schedule 2.10(b) shall be an Interval Liability;
- (c) any Liability which is expressly identified on Schedule 2.10(c) shall be an HSN Liability;
- (d) any Liability which is expressly identified on Schedule 2.10(d) shall be a Tree Liability;
- (e) any Liability which is expressly identified on Schedule 2.10(e) shall be a Retained Liability;
- (f) (i) 50% of any Shared Liability of Ticketmaster Spinco shall be a Ticketmaster Liability and 50% shall be a Retained Liability, (ii) 50% of any Shared Liability of Interval Spinco shall be an Interval Liability and 50% shall be a Retained Liability, (iii) 50% of

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any Shared Liability of HSN Spinco shall be an HSN Liability and 50% shall be a Retained Liability and (iv) 50% of any Shared Liability of Tree Spinco shall be a Tree Liability and 50% shall be a Retained Liability;

(g) any Liability of a Spun Entity, whether arising or accruing prior to, on or after the Effective Time and whether the facts on which it is based occurred on, prior to or after the Effective Time and whether or not reflected on the Corresponding Group Balance Sheet or on the Corresponding Opening Balance Sheet, shall be a Corresponding Liability of such Spun Entity's Corresponding Group, unless it is expressly identified in this Agreement (including on any Schedule) or in any Ancillary Agreement as a Liability to be assumed or retained by IAC (or any other member of the IAC Group) or by a Spinco that is not included in such Spun Entity's Corresponding Group (or any other relevant member of such other Spinco's Corresponding Group), in which case it shall be a Retained Liability or a Spun Liability of such other Spinco's Corresponding Group, as applicable;

- (h) any Liability relating to, arising out of, or resulting from the conduct of, a Spun Business (as conducted at any time prior to, on or after the

Effective Time) or relating to a Spun Asset or a Deferred Spun Asset and whether arising or accruing prior to, on or after the Effective Time and whether the facts on which it is based occurred on, prior to or after the Effective Time and whether or not reflected on the Corresponding Group Balance Sheet or the Corresponding Opening Balance Sheet, shall be a Corresponding Liability of such Spun Business' Corresponding Group, unless it is expressly identified in this Agreement (including on any Schedule) or in any Ancillary Agreement as a Liability to be assumed or retained by IAC (or any other member of the IAC Group) or by a Spinco that is not included in such Spun Entity's Corresponding Group (or any other relevant member of such other Spinco's Corresponding Group), in which case it shall be a Retained Liability or Spun Liability of such other Spinco's Corresponding Group, as applicable;

(i) any Liability which is reflected or otherwise disclosed as a liability or obligation of any Spinco Group on its Corresponding Group Balance Sheet shall be a Corresponding Liability of such Spinco Group;

(j) any Liability which would be reflected or otherwise disclosed on the Corresponding Group Balance Sheet of any Spinco Group, if such balance sheet were prepared under GAAP, shall be a Corresponding Liability of such Spinco Group;

(k) any Liability pursuant to contracts entered into by IAC and/or any member of the IAC Group (i) in connection with the acquisition, by IAC and/or any member of the IAC Group, of any Spun Entity and/or Spun Business or (ii) otherwise relating primarily to a Spun Entity and/or the conduct of a Spun Business, shall be a Corresponding Liability of such Spun Entity's or Spun Business's Corresponding Group, unless it is expressly identified in this Agreement (including on any Schedule) or in any Ancillary Agreement as a Liability to be assumed or retained by IAC (or any other member of the IAC Group) or by a Spinco that is not included in such Spun Entity's Corresponding Group (or any other relevant member of such other Spinco's Corresponding Group), in which case it shall be a Retained Liability or Spun Liability of such other Spinco's Corresponding Group, as applicable;

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(l) any Liability of a Remaining IAC Entity, whether arising or accruing prior to, on or after the Effective Time and whether the facts on which it is based occurred on, prior to or after the Effective Time, shall be Retained Liability, unless it is determined to be a Spun Liability pursuant to clause (a), (b), (c), (d), (f), (g), (h), (i), (j) or (k) above, in which case it shall be a Spun Liability as set forth thereunder;

(m) any Liability relating to, arising out of, or resulting from the conduct of, a Remaining IAC Business (as conducted at any time prior to, on or after the Effective Time) or relating to an Excluded Asset and whether arising or accruing prior to, on or after the Effective Time and whether the facts on which it is based occurred on, prior to or after the Effective Time, shall be a Retained Liability, unless it is determined to be a Spun Liability pursuant to clause (a), (b), (c), (d), (f), (g), (h), (i), (j) or (k) above, in which case it shall be a Spun Liability as set forth thereunder; and

(n) any Liability of any Spinco or any other member of any Spinco Group under this Agreement or any Ancillary Agreement shall be a Corresponding Liability of such Spinco Group and any Liability of IAC or any other member of the IAC Group under this Agreement or any Ancillary Agreement shall be a Retained Liability.

2.11. Third Party Consents and Government Approvals. To the extent that the Separation or any transaction contemplated thereby requires a Consent from any Third Party (a "Third Party Consent") or any Governmental Authorization, the Parties will use commercially reasonable efforts to obtain all such Third Party Consents and Governmental Authorizations prior to the Effective Time. If the Parties fail to obtain any such Third Party Consent or Governmental Authorization prior to the Effective Time, the matter shall be dealt with in the manner set forth in Article III.

2.12. Preservation of Agreements. The Parties each agree that all written agreements, arrangements, commitments and understandings between any member or members of its Corresponding Group, on the one hand, and any member or members of any other Group, on the other hand, shall remain in effect in accordance with their terms from and after the Effective Time, unless otherwise terminated by the relevant Parties.

2.13. Ancillary Agreements. On or prior to the Effective Time, the Parties shall execute and deliver or, as applicable, cause the appropriate members of their respective Groups to execute and deliver, each of the following agreements (collectively, the "Ancillary Agreements"):

- (a) the Employee Matters Agreement;
- (b) the Tax Sharing Agreement;
- (c) the Transition Services Agreement; and
- (d) the Transactions Memorandum, and such other agreements and instruments as may relate to or be identified in any of the foregoing agreements.

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2.14. Resignations. (a) IAC agrees to cause each Person who is a director or an officer of any Spun Entity and who will not be or become an employee of such Spun Entity's Spinco Group (or any member thereof) at the Effective Time to resign from such position with effect as of the Effective Time; provided, however, that this Section 2.14(a) shall not apply to the persons in the capacities set forth on Schedule 2.14(a).

(b) Each Spinco agrees to cause each Person (i) who is a director or an officer of a Remaining IAC Entity or any Spun Entity that is not a member of such Spinco's Corresponding Group and (ii) who will become an employee of such Spinco's Corresponding Group (or any member thereof) at the Effective Time to resign from such position with effect as of the Effective Time.

(c) Each Separate-co agrees to obtain all such letters of resignation or other evidence of such resignations as may be necessary or desirable in performing their respective obligations under this Section 2.14.

2.15. Cooperation. The Parties shall cooperate in all aspects of the Separation and shall sign all such documents and perform all such other acts as may be necessary or desirable to give full effect to the Separation; and each Separate-co shall cause each other member of its Corresponding Group to do likewise.

2.16. Intercompany Accounts Among Groups. Except as otherwise expressly provided in any Ancillary Agreement, from and after the Effective Time, each Separate-co agrees to cause any Intercompany Account payable by any member of its Corresponding Group to any member of any other Group to be satisfied in full.

2.17. Disclaimer of Representations and Warranties. (a) Each of the Parties (on behalf of itself and each other member of its respective Corresponding Group) understands and agrees that, except as expressly set forth herein or in any Ancillary Agreement, no Party to this Agreement, any Ancillary Agreement or any other agreement or document contemplated by this Agreement, any Ancillary Agreement or otherwise, makes any representation or warranty, express or implied, regarding any of the Spun Assets, Spun Entities, Spun Businesses, Excluded Assets, Spun Liabilities or Retained Liabilities including any warranty of merchantability or fitness for a particular purpose, or any representation or warranty regarding any Consents or Governmental Authorizations required in connection therewith or their transfer, regarding the value or freedom from Encumbrances of, or any other matter concerning, any Spun Asset or Excluded Asset, or regarding the absence of any defense or right of setoff or freedom from counterclaim with respect to any claim or other Spun Asset or Excluded Asset, including any Account Receivable of any Party, or as to the legal sufficiency of any

assignment, document or instrument delivered hereunder to convey title to any Spun Asset or Excluded Asset upon the execution, delivery and filing hereof or thereof.

(b) Except as may expressly be set forth herein or in any Ancillary Agreement, all Spun Assets and Excluded Assets are being transferred on an “as is, where is” basis, at the risk of the respective transferees without any warranty whatsoever on the part of the transferor, formal or implicit, legal, statutory or conventional (and, in the case of any Real Property, by means of a quitclaim or similar form deed or conveyance).

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### ARTICLE III DEFERRED SEPARATION TRANSACTIONS

3.01. Deferred Transfer Assets. (a) If the transfer to, or retention by, any member of a Spinco Group of any Asset that would otherwise constitute its Corresponding Asset (a “Deferred Spun Asset”; with respect to such Spinco, a “Deferred Corresponding Asset”) or the transfer to, or retention by, any member of the IAC Group of any Asset that would otherwise constitute an Excluded Asset (a “Deferred Excluded Asset,” and together with a Deferred Spun Asset, a “Deferred Transfer Asset”) cannot be accomplished without giving rise to a violation of Applicable Law, or without obtaining a Third Party Consent or a Governmental Authorization (collectively, a “Transfer Impediment”) and any such Third Party Consent or Governmental Authorization has not been obtained prior to the Effective Time, then such Asset shall be dealt with in the manner described in this Section 3.01.

(b) Pending removal of such Transfer Impediment, the Person holding the Deferred Transfer Asset (the “Retaining Person”) shall hold such Deferred Transfer Asset for the use and benefit, insofar as reasonably possible, of the Party to whom the transfer of such Asset could not be made at the Effective Time (the “Deferred Beneficiary”). The Retaining Person shall use commercially reasonable efforts to preserve such Asset and its right, title and interest therein and take all such other action as may reasonably be requested by the Deferred Beneficiary (in each case, at such Deferred Beneficiary’s expense) in order to place such Deferred Beneficiary, insofar as reasonably possible, in the same position as it would be in if such Asset had been transferred to it or retained by it with effect as of the Effective Time and so that, subject to the standard of care set forth above, all the benefits and burdens relating to such Deferred Transfer Asset, including possession, use, risk of loss, potential for gain, enforcement of rights against third parties and dominion, control and command over such Asset, are to inure from and after the Effective Time to such Deferred Beneficiary and the members of its Group. The provisions set forth in this Article III contain all the obligations of the Retaining Person vis-à-vis the Deferred Beneficiary with respect to the Deferred Transfer Asset and the Retaining Person shall not be bound vis-à-vis the Deferred Beneficiary by any other obligations under Applicable Law.

(c) The Parties shall continue on and after the Effective Time to use commercially reasonable efforts to remove all Transfer Impediments provided, however, that no Party shall be required to make any unreasonable payment or assume any material obligations therefor. As and when any Transfer Impediment is removed, the relevant Deferred Transfer Asset shall forthwith be transferred to its Deferred Beneficiary at no additional cost and in a manner and on terms consistent with the relevant provisions of this Agreement and the Ancillary Agreements, including Section 2.17(b) hereof, and any such transfer shall take effect as of the date of its actual transfer.

(d) Notwithstanding the foregoing or any provision of Applicable Law, a Retaining Person shall not be obligated, in connection with the foregoing, to expend any money in respect of a Deferred Transfer Asset unless the necessary funds are advanced by the Deferred Beneficiary of such Deferred Transfer Asset, other than reasonable attorneys’ fees and recording or similar fees, all of which shall be promptly reimbursed by the Deferred Beneficiary of such Deferred Transfer Asset.

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3.02. Unreleased Liabilities. If at any time on or after the Effective Time, any member of any Group shall remain obligated to any Third Party in respect of any Corresponding Liability not its own — i.e., a Corresponding Liability of another Separate-co (such other Separate-co with respect such Unreleased Liability and such Unreleased Person, the “Responsible Separate-co”) — the following provisions shall apply. The Liabilities referred to in this Section 3.02 are hereinafter referred to as the “Unreleased Liabilities,” the Person remaining obligated for such Liability in a manner contrary to what is intended under this Agreement is hereinafter referred to as the “Unreleased Person,” such Unreleased Person’s Corresponding Separate-co, the “Unreleased Separate-co” and such Unreleased Person’s Corresponding Group, the “Unreleased Group”.

(a) Each Unreleased Person shall remain obligated to Third Parties for such Unreleased Liability as provided in the relevant Contract, Applicable Law or other source of such Unreleased Liability and shall pay and perform such Unreleased Liability as and when required, in accordance with its terms.

(b) Each Responsible Separate-co shall indemnify, defend and hold harmless each Other Separate-Co Indemnified Party that is an Unreleased Person from and against any Liabilities arising in respect of each Unreleased Liability of such Unreleased Person that is a Corresponding Liability of such Responsible Separate-co. Each Responsible Separate-co shall take, and shall cause the members of its Corresponding Group (the “Responsible Group”) to take, such other actions as may be reasonably requested by the applicable Unreleased Separate-co in accordance with the provisions of this Agreement in order to place the applicable Unreleased Group, insofar as reasonably possible, in the same position as it would be in if such Unreleased Liability had been fully contributed, assigned, transferred, conveyed, and delivered to, and accepted and assumed or retained, as applicable, by such Responsible Separate-co (or any relevant member of the Responsible Group) with effect as of the Effective Time and so that all the benefits and burdens relating to such Unreleased Liability, including possession, use, risk of loss, potential for gain, and dominion, control and command over such Unreleased Liability, are to inure from and after the Effective Time to the member or members of the Responsible Group.

(c) Each Responsible Separate-co shall continue on and after the Effective Time to use commercially reasonable efforts to cause the applicable Unreleased Persons to be released from their respective Unreleased Liabilities.

(d) If, as and when it becomes possible to delegate, novate or extinguish any Unreleased Liability in favor of an Unreleased Person, the relevant Parties shall promptly sign all such documents and perform all such other acts, and shall cause each member of their respective Groups, as applicable, to sign all such documents and perform all such other acts, as may be necessary or desirable to give effect to such delegation, novation, extinction or other release without payment of any further consideration by the Unreleased Person.

3.03. No Additional Consideration. For the avoidance of doubt, the transfer or assumption of any Assets or Liabilities under this Article III shall be effected without any additional consideration by any Party hereunder.

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### ARTICLE IV COVENANTS

4.01. General Covenants. Each Party covenants with and in favor of the other Parties that it shall, subject, in the case of IAC, to Article XII:

(a) do and perform all such acts and things, and execute and deliver all such agreements, assurances, notices and other documents and instruments as

may reasonably be required of it to facilitate the carrying out of the intent and purpose of this Agreement;

(b) cooperate with and assist the other Parties, both before and after the Effective Time, in dealing with transitional matters relating to or arising from the Separation, the Distributions, this Agreement or the Ancillary Agreements; and

(c) cooperate in preparing and filing all documentation (i) to effect all necessary applications, notices, petitions, filings and other documents; and (ii) to obtain as promptly as reasonably practicable all Consents and Governmental Authorizations necessary or advisable to be obtained from any Third Party and/or any Governmental Authority in order to consummate the transactions contemplated by this Agreement (including all approvals required under applicable antitrust laws).

4.02. Covenants of the Spinco's. In addition to the covenants of the Spinco's provided for elsewhere in this Agreement, each Spinco covenants and agrees with, and in favor of, the other Parties that it shall:

(a) use commercially reasonable efforts and do all things reasonably required of it to cause the Separation and the Distributions to be completed, including cooperating with IAC to obtain: the approval for the listing of such Spinco's Spinco Common Stock on NASDAQ or such other securities exchange or inter-dealer quotation system as is reasonably acceptable to IAC;

(b) use its commercially reasonable efforts to take all such action as may be necessary or desirable under applicable state securities and blue sky laws of the United States (and any comparable laws under any foreign jurisdictions) in connection with the Separation and the Distributions;

(c) use its commercially reasonable efforts to cause any member of another Group to be released, as soon as reasonably practicable, from any guarantees given by any member of such other Group (the "Guaranteeing Group"; its Corresponding Separate-co, the "Guaranteeing Separate-co") for the benefit of such Spinco (the "Guaranteed Spinco"; its Corresponding Group, the "Guaranteed Group"; its Corresponding Entities, the "Guaranteed Entities") or any Guaranteed Entities and (to the extent necessary to secure such releases) to cause itself or one or more members of the Guaranteed Group to be substituted in all respects for any member of the Guaranteeing Group in respect of such guarantees, provided, that in the event that, notwithstanding the commercially reasonable efforts of the Guaranteed Spinco, the Guaranteed Spinco is unable to obtain such guarantee releases, the Guaranteed Spinco hereby agrees to indemnify and hold the Guaranteeing Separate-co and the other members of the

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Guaranteeing Group harmless from and against all Liabilities incurred by them in connection with, arising out of or resulting from such guarantees; and

(d) perform and, as applicable, cause each member of its Corresponding Group to perform each of its and their respective obligations under each Ancillary Agreement.

4.03. Spinco Common Stock Escrow Accounts. (a) Immediately following the Effective Time, each Spinco shall deposit a number of shares of its Spinco Common Stock as is equal to the product of (x) its Corresponding Distribution Ratio and (y) the number of shares of IAC Common Stock deliverable upon the exercise of the Old IAC Integrated Warrant if such warrant were to be exercised immediately prior to the Effective Time (such Spinco's "Corresponding Escrow Shares") into an escrow account (a "Spinco Common Stock Escrow Account") to be established by each Spinco with The Bank of New York Mellon (the "Escrow Agent") to be held by the Escrow Agent pursuant to the terms of an escrow agreement in customary form to be agreed upon by each of the Spinco's and the Escrow Agent prior to the Effective Time (an "Escrow Agreement"). The Spinco Common Stock Escrow Accounts will serve as a source of shares of Spinco Common Stock deliverable upon the exercise of the New IAC Integrated Warrant. Under the terms of the Escrow Agreements, any shares of Spinco Common Stock designated for delivery upon exercise of the New IAC Integrated Warrant shall be returned to the applicable Spinco upon the expiration without exercise of the New IAC Integrated Warrant in accordance with its terms. IAC and each Spinco acknowledge that IAC's obligation to issue shares of IAC Common Stock to the holder of the Old IAC Integrated Warrant relates to the businesses that were conducted by the IAC Group and the Spinco Groups prior to the Effective Time. Accordingly, from and after the Effective Time, upon an exercise of the New IAC Integrated Warrant, as between IAC and the Spinco's, each Spinco will exclusively bear the obligation to deliver shares of its Spinco Common Stock. The issuance and delivery by each Spinco of its Corresponding Escrow Shares to the applicable Spinco Common Stock Escrow Account is intended to further such Spinco's satisfaction of such obligations following the Separation and the Distributions; provided, however, that if for any reason such Spinco Common Stock Escrow Account does not satisfy such obligations, the transfer of shares by such Spinco to the Spinco Common Stock Escrow Account under this Section 4.03 is not in substitution of the obligations of such Spinco under the immediately preceding sentence to deliver shares of its Spinco Common Stock. For the avoidance of doubt, any obligations with respect to the delivery of any Spinco Common Stock on account of the New IAC Integrated Warrant shall be a Corresponding Liability of such Spinco. If, at any time or from time to time following the Effective Time,

(X) IAC reasonably determines in good faith (which determination, absent manifest error, shall be final and binding) in its sole discretion that, for any Spinco, its Corresponding Escrow Shares are insufficient to satisfy the obligations with respect to the New IAC Integrated Warrant, IAC shall provide to such Spinco written notice indicating the number of additional shares of such Spinco Common Stock necessary to satisfy the obligations pursuant to the New IAC Integrated Warrant and such Spinco shall promptly deposit into the applicable Spinco Common Stock Escrow Account the number of shares of such Spinco Common Stock indicated in the written notice from IAC; or

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(Y) any Spinco undertakes any action, or any event shall occur, that either (i) results in an adjustment to the number of shares of its Spinco Common Stock with respect to which the New IAC Integrated Warrant is exercisable or (ii) causes that portion of the New IAC Integrated Warrant that would otherwise have been exercisable for shares of such Spinco Common Stock to become exercisable into another form of consideration (including, without limitation, in conjunction with a merger of such Spinco or a reclassification of such Spinco Common Stock), then, in each case, such Spinco shall promptly deposit into the applicable Spinco Common Stock Escrow Account the number of additional shares of such Spinco Common Stock and/or the other consideration with respect to which the New IAC Integrated Warrant is exercisable.

(b) Notwithstanding the foregoing, in lieu of issuing any fractional shares of its Spinco Common Stock upon the exercise of the New IAC Integrated Warrant, the applicable Spinco shall promptly deposit into the applicable Spinco Common Stock Escrow Account cash in lieu of such fractional share in an amount computed in accordance with the terms of the New IAC Integrated Warrant.

4.04. Cash Balance True-Ups. (a) In the event that, after review and reconciliation, the amount of cash and cash equivalents reflected in the bank statements of TM Spinco and its subsidiaries as of the Effective Time plus the balance as of the Effective Time of any note or notes of any member of the IAC Group held by any member of the TM Group less the balance as of the Effective Time of any note or notes of any member of the TM Group held by any member of the IAC Group (the "TM Effective Time Cash Balance") is greater than \$[•] (the "TM Target Cash Balance"), TM Spinco shall make one or more payments to IAC as promptly as practicable after the Effective Time, but in no event more than [ninety (90)] days after the Effective Time, totaling an amount equal to the excess of the TM Effective Time Cash Balance over the TM Target Cash Balance. In the event that, after review and reconciliation, the TM Effective Time Cash Balance is less than the TM Target Cash Balance, IAC shall make one or more payments to TM Spinco as promptly as practicable after the Effective Time, but in no event more than [ninety (90)] days after the Effective Time, totaling an amount equal to the excess of the TM Target Cash Balance over the TM Effective Time Cash Balance. Notwithstanding Section 13.08, payments pursuant to this Section 4.04(a) shall not bear any interest.

(b) In the event that, after review and reconciliation, the amount of cash and cash equivalents reflected in the bank statements of Interval Spinco and its subsidiaries as of the Effective Time plus the balance as of the Effective Time of any note or notes of any member of the IAC Group held by any member of the Interval Group less the balance as of the Effective Time of any note or notes of any member of the Interval Group held by any member of the IAC Group (the "Interval Effective Time Cash Balance") is greater than \$[\*] (the "Interval Target Cash Balance"), Interval Spinco shall make one or more payments to IAC as promptly as practicable after the Effective Time, but in no event more than [ninety (90)] days after the Effective Time, totaling an amount equal to the excess of the Interval Effective Time Cash Balance over the Interval Target Cash Balance. In the event that, after review and reconciliation, the Interval Effective Time Cash Balance is less than the Interval Target Cash Balance, IAC shall make one or more payments to Interval Spinco as promptly as practicable after the Effective

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Time, but in no event more than [ninety (90)] days after the Effective Time, totaling an amount equal to the excess of the Interval Target Cash Balance over the Interval Effective Time Cash Balance. Notwithstanding Section 13.08, payments pursuant to this Section 4.04(b) shall not bear any interest.

(c) In the event that, after review and reconciliation, the amount of cash and cash equivalents reflected in the bank statements of HSN Spinco and its subsidiaries as of the Effective Time plus the balance as of the Effective Time of any note or notes of any member of the IAC Group held by any member of the HSN Group less the balance as of the Effective Time of any note or notes of any member of the HSN Group held by any member of the IAC Group (the "HSN Effective Time Cash Balance") is greater than \$[\*] (the "HSN Target Cash Balance"), HSN Spinco shall make one or more payments to IAC as promptly as practicable after the Effective Time, but in no event more than [ninety (90)] days after the Effective Time, totaling an amount equal to the excess of the HSN Effective Time Cash Balance over the HSN Target Cash Balance. In the event that, after review and reconciliation, the HSN Effective Time Cash Balance is less than the HSN Target Cash Balance, IAC shall make one or more payments to HSN Spinco as promptly as practicable after the Effective Time, but in no event more than [ninety (90)] days after the Effective Time, totaling an amount equal to the excess of the HSN Target Cash Balance over the HSN Effective Time Cash Balance. Notwithstanding Section 13.08, payments pursuant to this Section 4.04(c) shall not bear any interest.

(d) In the event that, after review and reconciliation, the amount of cash and cash equivalents in the bank statements of Tree Spinco and its subsidiaries as of the Effective Time plus the balance as of the Effective Time of any note or notes of any member of the IAC Group held by any member of the Tree Group less the balance as of the Effective Time of any note or notes of any member of the Tree Group held by any member of the IAC Group (the "Tree Effective Time Cash Balance") is greater than \$[\*] (the "Tree Target Cash Balance"), Tree Spinco shall make one or more payments to IAC as promptly as practicable after the Effective Time, but in no event more than [ninety (90)] days after the Effective Time, totaling an amount equal to the excess of the Tree Effective Time Cash Balance over the Tree Target Cash Balance. In the event that, after review and reconciliation, the Tree Effective Time Cash Balance is less than the Tree Target Cash Balance, IAC shall make one or more payments to Tree Spinco as promptly as practicable after the Effective Time, but in no event more than [ninety (90)] days after the Effective Time, totaling an amount equal to the excess of the Tree Target Cash Balance over the Tree Effective Time Cash Balance. Notwithstanding Section 13.08, payments pursuant to this Section 4.04(d) shall not bear any interest.

#### 4.05. Non-Solicitation.

(a) IAC and each of the Spinco's shall not, and each of them shall cause the other members of its respective Corresponding Group not to, from the applicable Distribution Date of a Spinco (the "Subject Spinco") through and including the eighteen-month anniversary of such Distribution Date, without the prior written consent of the Subject Spinco, either directly or indirectly, on their own behalf or in the service or on behalf of others, solicit for employment or solicit, aid, induce or encourage any person who is an employee of the Subject Spinco's respective Corresponding Group as of such Distribution Date to leave his or her employment.

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(b) No Spinco shall, and each of them shall cause the other members of its respective Corresponding Group not to, from the applicable Distribution Date of such Spinco through and including the eighteen-month anniversary of such Distribution Date, without the prior written consent of IAC, either directly or indirectly, on their own behalf or in the service or on behalf of others, solicit for employment or solicit, aid, induce or encourage any person who is an employee of IAC's Corresponding Group as of such Distribution Date to leave his or her employment.

(c) Nothing in this Section 4.06 shall be deemed to prohibit any general solicitation for employment through advertisements and search firms not specifically directed at employees of another Party, provided that the applicable Party has not encouraged or advised such firm to approach any such employee.

### ARTICLE V THE DISTRIBUTIONS

5.01. Conditions to the Distributions. (a) In addition to, and without in any way limiting, IAC's rights under Section 12.1, completion of each Distribution is conditioned on:

- (i) the IAC Board not having determined that such Distribution is not in the best interests of IAC and its stockholders;
- (ii) the Registration Statements with respect to such Spinco's common shares shall have been declared effective by the SEC or become effective under the Exchange Act, no stop order suspending the effectiveness of such Registration Statement shall have been issued and no proceedings for that purpose shall have been instituted or threatened by the SEC;
- (iii) the applicable Spinco Common Stock shall have been accepted for listing on NASDAQ, subject to compliance with applicable listing requirements;
- (iv) no Order or other legal restraint or prohibition preventing the consummation of any of the Distributions, or any of the transactions contemplated by this Agreement or any Ancillary Agreement, including the transactions to effect the Separation, shall be threatened, pending or in effect;
- (v) any material Consents and Governmental Authorizations necessary to complete the Separation and the Distributions shall have been obtained and be in full force and effect;
- (vi) the stockholders of IAC shall have approved, in accordance with the DGCL, a merger agreement providing for the merger of a wholly-owned subsidiary of IAC with and into IAC pursuant to which all of the outstanding shares of preferred stock of IAC shall be converted into the right to receive cash;
- (vii) the IAC Board shall have received a written solvency opinion, in form and substance acceptable to the IAC Board, from Duff & Phelps regarding the

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Separation, the Distributions and other transactions contemplated hereby, which opinion shall not have been withdrawn or modified;

(viii) IAC shall have received an opinion of Wachtell, Lipton, Rosen & Katz, in form and substance satisfactory to the IAC Board, regarding the qualification of the Distributions, as transactions that are generally tax free for U.S. federal income tax purposes under Sections 355 and/or 368(a)(1)(D) of the Code (to the extent such qualification is not addressed by an Internal Revenue Service private letter ruling (the "IRS Ruling") received by IAC), which opinion (and, in the event IAC shall have received the IRS Ruling, the IRS Ruling) shall not have been withdrawn or modified;

(ix) IAC shall have received opinions from its external tax advisors, in form and substance satisfactory to the IAC Board, regarding the U.S. federal income tax consequences to IAC of certain related matters and transactions (to the extent such matters are not addressed by the IRS Ruling) and certain state tax consequences to IAC of the spin-offs, which opinions shall not have been withdrawn or modified; and

(x) IAC shall have received an opinion of Delaware counsel to IAC, in form and substance satisfactory to the IAC Board, to the effect that the Separation and the Distributions do not require approval of the stockholders of IAC under Section 271 of the DGCL.

(b) The foregoing conditions are for the sole benefit of IAC and shall not give rise to or create any duty on the part of IAC or the IAC Board to waive or not to waive such conditions or in any way limit IAC's right to terminate this Agreement in whole or in part as set forth in Article XII or alter the consequences of any such termination from those specified in such Article XII. Any determination made by IAC prior to the Separation and the Distributions concerning the satisfaction or waiver of the conditions set forth in this Section 5.01 shall be final and conclusive.

5.02. Distribution of Spingo Common Stock. (a) Prior to the Effective Time and in accordance with the Transactions Memo, each Spingo shall issue to IAC such additional shares of its Spingo Common Stock (or shall take or cause to be taken such other appropriate actions to ensure that IAC has the requisite number of shares of Spingo Common Stock) to cause the number of shares of such Spingo Common Stock issued and outstanding immediately prior to the Effective Time to equal the product of (x) the sum of (i) the applicable IAC Record Date Share Number and (ii) the number of shares of IAC Common Stock issued or issuable pursuant to the exercise of outstanding IAC Stock Options or pursuant to the vesting of IAC Restricted Stock Units (as such terms are defined in the Employee Matters Agreement), in either case following the applicable Distribution Record Date and prior to the third Business Day immediately prior to the applicable Distribution Date (giving effect to any cashless exercise of IAC Stock Options or withholding of shares of IAC Common Stock to satisfy tax withholding obligations) ("Post-Record Date IAC Shares") (y) the Corresponding Distribution Ratio. The Corresponding Distribution Ratio with respect to any Spingo shall be appropriately adjusted in the event of any stock split, reverse stock split or similar event in respect of the IAC Common Stock and/or IAC Class B Common Stock following the date of this Agreement and prior to the Effective Time.

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(b) On the terms and subject to the conditions in this Agreement, with respect to each Distribution, IAC will cause the applicable distribution or transfer agent (the "Agent") at the Effective Time to distribute all of the outstanding shares of the applicable Spingo Common Stock then owned by IAC to holders of IAC Common Stock and IAC Class B Common Stock as of the applicable Distribution Record Date and, in accordance with the Employee Matters Agreement, to holders of Post-Record Date IAC Shares, and to credit the number of such shares of Spingo Common Stock to book-entry accounts for each such holder or designated transferee or transferees of such holder of IAC Common Stock or IAC Class B Common Stock. On the terms and subject to the conditions in this Agreement, each holder of IAC Common Stock or IAC Class B Common Stock on the applicable Distribution Record Date (or such holder's designated transferee or transferees) will be entitled to receive in the applicable Distribution a fraction of a share of the applicable Spingo's Spingo Common Stock equal to the applicable Distribution Ratio for each share of IAC Common Stock or IAC Class B Common Stock so held by such stockholder as of the applicable Distribution Record Date. No action by any such stockholder shall be necessary for such stockholder (or such stockholder's designated transferee or transferees) to receive the applicable number of shares of Spingo Common Stock (and, if applicable, cash in lieu of any fractional shares) that such stockholder is entitled to receive in the applicable Distribution.

5.03. Fractional Shares. With respect to each Distribution, IAC stockholders holding a number of shares of IAC Common Stock or IAC Class B Common Stock on the applicable Distribution Record Date which would entitle such stockholders to receive other than a whole number of shares of the applicable Spingo Common Stock in such Distribution, will receive cash in lieu of such fractional shares. Fractional shares of Spingo Common Stock will not be distributed in any Distribution nor credited to book-entry accounts. The Agent shall, as soon as practicable after the applicable Distribution Date: (a) determine the number of whole shares and fractional shares of the applicable Spingo Common Stock to each holder of record as of close of business on the applicable Distribution Record Date, (b) aggregate all such fractional shares into whole shares and sell the whole shares obtained thereby in open market transactions as soon as practicable after the applicable Distribution Date, in each case, at then prevailing trading prices on behalf of holders who would otherwise be entitled to fractional share interests, and (c) distribute to each such holder, or for the benefit of each such beneficial owner, such holder or owner's ratable share of the net proceeds of such sale, based upon the average gross selling price per share of applicable Spingo Common Stock, after making appropriate deductions for any amount required to be withheld for United States federal income tax purposes. Each Spingo shall bear the cost of brokerage fees incurred in connection with the sales of fractional shares of its Spingo Common Stock, which sales shall occur as soon after the applicable Distribution Date as practicable and as determined by the Agent. None of the Parties nor the Agent will guarantee any minimum sale price for fractional shares of Spingo Common Stock. None of the Parties will pay any interest on the proceeds from the sale of fractional shares. The Agent acting on behalf of the applicable Spingo will have the sole discretion to select the broker-dealers through which to sell the aggregated fractional shares and to determine when, how and at what price to sell such shares. Neither the Agent nor the broker-dealers through which the aggregated fractional shares are sold will be Affiliates of IAC or the applicable Spingo.

5.04. Actions in Connection with the Distributions. (a) Each Spingo shall file such amendments and supplements to its respective Registration Statement as IAC may

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reasonably request, and such amendments as may be necessary in order to cause the same to become and remain effective as required by Applicable Law, including filing such amendments and supplements to its respective Registration Statement as may be required by the SEC or federal, state or foreign securities laws. IAC shall mail to the holders of IAC Common Stock and IAC Class B Common Stock, at such time on or prior to the applicable Distribution Date as IAC shall determine, the Prospectus forming a part of the applicable Registration Statement, as well as any other information concerning any of the Spingos, their business, operations and management, the Separation and such other matters as IAC shall reasonably determine are necessary and as may be required by Applicable Law.

(b) Each of the Spingos shall also cooperate with IAC in preparing, filing with the SEC and causing to become effective registration statements or amendments thereof which are required to reflect the establishment of, or amendments to, any employee benefit and other plans necessary or appropriate in connection with the Separation or other transactions contemplated by this Agreement and the Ancillary Agreements. Promptly after receiving a request from IAC, to the extent requested, each of HSN Spingo, Interval Spingo, TM Spingo and Tree Spingo, as applicable, shall prepare and, in accordance with Applicable Law, file with the SEC any such documentation that IAC determines is necessary or desirable to effectuate the Distributions, and IAC, HSN Spingo, Interval Spingo, TM Spingo and Tree Spingo shall each use commercially reasonable efforts to obtain all necessary approvals from the SEC with respect thereto as soon as practicable.

(c) Nothing in this Section 5.04 shall be deemed, by itself, to shift Liability for any portion of any Registration Statement or Prospectus to IAC.

(d) In addition to the covenants of the Spinco provided for elsewhere in this Agreement, each Spinco covenants and agrees with, and in favor of, IAC that it shall (i) cooperate with IAC in connection with IAC's performance of its obligations under the Liberty Spinco Agreement with respect to such Spinco to be performed by IAC prior to the Effective Time, (ii) enter into a Liberty Spinco Assumption Agreement and a Liberty Registration Rights Agreement as contemplated by the Liberty Spinco Agreement and (iii) indemnify and hold IAC and the other members of the IAC Group harmless from and against all Liabilities incurred by them in connection with, arising out of or resulting from such Spinco's performance or failure to perform its obligations under such agreements following the Effective Time.

5.05. Treatment of Integrated Warrant. Immediately following the Effective Time:

(a) the Old IAC Integrated Warrant shall by its terms, effective as of the Effective Time be adjusted (as so adjusted, the New IAC Integrated Warrant), represent the right to receive upon due exercise (w) a number of shares of IAC Common Stock equal to the number of shares of IAC Common Stock subject to the Old IAC Integrated Warrant immediately prior the Effective Time (the "Warrant Share Number"); (x) a number of shares of common stock of Expedia, Inc. (or substitutions therefor) as set forth in that certain Separation Agreement, dated as of August 9, 2005, between IAC and Expedia, Inc.; (y) a number of shares of Spinco Common Stock (or substitutions therefor) of each Spinco, if any, the Distribution Date of which shall have occurred prior to such Effective Time; and (z) such number of shares of

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Spinco Common Stock of each Spinco whose Distribution is effected at such Effective Time as a given holder of IAC Common Stock would be entitled at the Effective Time had such holder held, on the applicable Distribution Record Date, a number of shares of IAC Common Stock equal to the Warrant Share Number; and

(b) the exercise price of the New IAC Integrated Warrant will not change.

**ARTICLE VI  
MUTUAL RELEASES; INDEMNIFICATION**

6.01. Release of Pre-Distribution Claims. (a) Except as provided in Section 6.01(f), effective as of the Effective Time, TM Spinco does hereby, on behalf of itself and each other member of the TM Group, their respective Affiliates (other than any member of any other Group), successors and assigns, and all Persons who at any time prior to the Effective Time have been stockholders (other than any member of any other Group), directors, officers, agents or employees of any member of the TM Group (in each case, in their respective capacities as such) (the "TM Releasers"), unequivocally, unconditionally and irrevocably release and discharge each of the other Separate-cos, the other members of the other Groups, their respective Affiliates (other than any member of the TM Group), successors and assigns, and all Persons who at any time prior to the Effective Time have been stockholders, directors, officers, agents or employees of any member of any other Group (in each case, in their respective capacities as such), and their respective heirs, executors, trustees, administrators, successors and assigns (the "Non-TM Parties"), from any and all Actions, causes of action, choses in action, cases, claims, suits, debts, dues, damages, judgments and liabilities, of any nature whatsoever, in law, at equity or otherwise, whether direct, derivative or otherwise, which have been asserted against a Non-TM Party or which, whether currently known or unknown, suspected or unsuspected, fixed or contingent, and whether or not concealed or hidden, the TM Releasers ever could have asserted or ever could assert, in any capacity, whether as partner, employer, agent or otherwise, either for itself or as an assignee, heir, executor, trustee, administrator, successor or otherwise for or on behalf of any other Person, against the Non-TM Parties, relating to any claims or transactions or occurrences whatsoever, up to but excluding the Effective Time, including in connection with the transactions and all activities to implement the Separation and the Distributions ("TM Claims"); and the TM Releasers hereby unequivocally, unconditionally and irrevocably agree not to initiate proceedings with respect to, or institute, assert or threaten to assert, any TM Claim.

(b) Except as provided in Section 6.01(f), effective as of the Effective Time, Interval Spinco does hereby, on behalf of itself and each other member of the Interval Group, their respective Affiliates (other than any member of any other Group), successors and assigns, and all Persons who at any time prior to the Effective Time have been stockholders (other than any member of any other Group), directors, officers, agents or employees of any member of the Interval Group (in each case, in their respective capacities as such) (the "Interval Releasers"), unequivocally, unconditionally and irrevocably release and discharge each of the other Separate-cos, the other members of the other Groups, their respective Affiliates (other than any member of the Interval Group), successors and assigns, and all Persons who at any time prior to the Effective Time have been stockholders, directors, officers, agents or employees of any member of any other Group (in each case, in their respective capacities as such), and their respective

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heirs, executors, trustees, administrators, successors and assigns (the "Non-Interval Parties"), from any and all Actions, causes of action, choses in action, cases, claims, suits, debts, dues, damages, judgments and liabilities, of any nature whatsoever, in law, at equity or otherwise, whether direct, derivative or otherwise, which have been asserted against a Non-Interval Party or which, whether currently known or unknown, suspected or unsuspected, fixed or contingent, and whether or not concealed or hidden, the Interval Releasers ever could have asserted or ever could assert, in any capacity, whether as partner, employer, agent or otherwise, either for itself or as an assignee, heir, executor, trustee, administrator, successor or otherwise for or on behalf of any other Person, against the Non-Interval Parties, relating to any claims or transactions or occurrences whatsoever, up to but excluding the Effective Time, including in connection with the transactions and all activities to implement the Separation and the Distributions ("Interval Claims"); and the Interval Releasers hereby unequivocally, unconditionally and irrevocably agree not to initiate proceedings with respect to, or institute, assert or threaten to assert, any Interval Claim.

(c) Except as provided in Section 6.01(f), effective as of the Effective Time, HSN Spinco does hereby, on behalf of itself and each other member of the HSN Group, their respective Affiliates (other than any member of any other Group), successors and assigns, and all Persons who at any time prior to the Effective Time have been stockholders (other than any member of any other Group), directors, officers, agents or employees of any member of the HSN Group (in each case, in their respective capacities as such) (the "HSN Releasers"), unequivocally, unconditionally and irrevocably release and discharge each of the other Separate-cos, the other members of the other Groups, their respective Affiliates (other than any member of the HSN Group), successors and assigns, and all Persons who at any time prior to the Effective Time have been stockholders, directors, officers, agents or employees of any member of any other Group (in each case, in their respective capacities as such), and their respective heirs, executors, trustees, administrators, successors and assigns (the "Non-HSN Parties"), from any and all Actions, causes of action, choses in action, cases, claims, suits, debts, dues, damages, judgments and liabilities, of any nature whatsoever, in law, at equity or otherwise, whether direct, derivative or otherwise, which have been asserted against a Non-HSN Party or which, whether currently known or unknown, suspected or unsuspected, fixed or contingent, and whether or not concealed or hidden, the HSN Releasers ever could have asserted or ever could assert, in any capacity, whether as partner, employer, agent or otherwise, either for itself or as an assignee, heir, executor, trustee, administrator, successor or otherwise for or on behalf of any other Person, against the Non-HSN Parties, relating to any claims or transactions or occurrences whatsoever, up to but excluding the Effective Time, including in connection with the transactions and all activities to implement the Separation and the Distributions ("HSN Claims"); and the HSN Releasers hereby unequivocally, unconditionally and irrevocably agree not to initiate proceedings with respect to, or institute, assert or threaten to assert, any HSN Claim.

(d) Except as provided in Section 6.01(f), effective as of the Effective Time, Tree Spinco does hereby, on behalf of itself and each other member of the Tree Group, their respective Affiliates (other than any member of any other Group), successors and assigns, and all Persons who at any time prior to the Effective Time have been stockholders (other than any member of any other Group), directors, officers, agents or employees of any member of the Tree Group (in each case, in their respective capacities as such) (the "Tree Releasers"), unequivocally, unconditionally and irrevocably release and discharge each of the other Separate-cos, the other

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members of the other Groups, their respective Affiliates (other than any member of the Tree Group), successors and assigns, and all Persons who at any time prior to the Effective Time have been stockholders, directors, officers, agents or employees of any member of any other Group (in each case, in their respective capacities as such), and their respective heirs, executors, trustees, administrators, successors and assigns (the “Non-Tree Parties”), from any and all Actions, causes of action, choses in action, cases, claims, suits, debts, dues, damages, judgments and liabilities, of any nature whatsoever, in law, at equity or otherwise, whether direct, derivative or otherwise, which have been asserted against a Non-LT Party or which, whether currently known or unknown, suspected or unsuspected, fixed or contingent, and whether or not concealed or hidden, the Tree Releasers ever could have asserted or ever could assert, in any capacity, whether as partner, employer, agent or otherwise, either for itself or as an assignee, heir, executor, trustee, administrator, successor or otherwise for or on behalf of any other Person, against the Non-LT Parties, relating to any claims or transactions or occurrences whatsoever, up to but excluding the Effective Time, including in connection with the transactions and all activities to implement the Separation and the Distributions (“Tree Claims”); and the Tree Releasers hereby unequivocally, unconditionally and irrevocably agree not to initiate proceedings with respect to, or institute, assert or threaten to assert, any Tree Claim.

(e) Except as provided in Section 6.01(f), effective as of the Effective Time, IAC does hereby, on behalf of itself and each other member of the IAC Group, their respective Affiliates (other than any member of any Spinco Group), successors and assigns, and all Persons who at any time prior to the Effective Time have been stockholders, directors, officers, agents or employees of any member of the IAC Group (in each case, in their respective capacities as such) (the “IAC Releasers”), unequivocally, unconditionally and irrevocably release and discharge each of the Spincos, the other members of the Spinco Groups, their respective Affiliates (other than any member of the IAC Group), successors and assigns, and all Persons who at any time prior to the Effective Time have been stockholders (other than any member of the IAC Group), directors, officers, agents or employees of any member of any Spinco Group (in each case, in their respective capacities as such), and their respective heirs, executors, trustees, administrators, successors and assigns (the “Non-IAC Parties”), from any and all Actions, causes of action, choses in action, cases, claims, suits, debts, dues, damages, judgments and liabilities, of any nature whatsoever, in law, at equity or otherwise, whether direct, derivative or otherwise, which have been asserted against an Non-IAC Party or which, whether currently known or unknown, suspected or unsuspected, fixed or contingent, and whether or not concealed or hidden, the IAC Releasers ever could have asserted or ever could assert, in any capacity, whether as partner, employer, agent or otherwise, either for itself or as an assignee, heir, executor, trustee, administrator, successor or otherwise for or on behalf of any other Person, against the Non-IAC Parties, relating to any claims or transactions or occurrences whatsoever, up to but excluding the Effective Time including in connection with the transactions and all activities to implement the Separation and the Distributions (“IAC Claims”); and the IAC Releasers hereby unequivocally, unconditionally and irrevocably agree not to initiate proceedings with respect to, or institute, assert or threaten to assert, any IAC Claim.

(f) Nothing contained in Section 6.01(a), 6.01(b), 6.01(c), 6.01(d) or 6.01(e) shall impair any right of any Person to enforce this Agreement, any Ancillary Agreement or, any agreement, arrangement, commitment or understanding that is contemplated by Section 2.12 or any other agreement, arrangement, commitment or understanding that is entered into after the

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Effective Time among any member of any Group, on the one hand, and any member of any other Group, on the other hand, nor shall anything contained in those sections be interpreted as terminating as of the Effective Time any rights under any such agreements, contracts, commitments or understandings. For purposes of clarification, nothing contained in Section 6.01(a), 6.01(b), 6.01(c), 6.01(d) or 6.01(e) shall release any Person from:

- (i) any Liability provided in or resulting from this Agreement or any of the Ancillary Agreements;
- (ii) any Liability provided in or resulting from any agreement among any members of any Group that is contemplated by Section 2.13 (including for greater certainty, any Liability resulting or flowing from any breaches of such agreements that arose prior to the Effective Time);
- (iii) any Liability provided in or resulting from any other agreement, arrangement, commitment or understanding that is entered into after the Effective Time between any member of any Group, on the one hand, and any member of any other Group, on the other hand;
- (iv) (A) with respect to each Spinco, any Corresponding Liability of such Spinco and (B) with respect to IAC, any Retained Liability;
- (v) any Liability that the Parties may have with respect to indemnification or contribution pursuant to Article III or Section 5.04(d) of this Agreement or this Article VI for Third Party Claims;
- (vi) any Liability for unpaid Intercompany Accounts; or
- (vii) any Liability the release of which would result in the release of any Person other than a Person released pursuant to this Section 6.01.

In addition, nothing contained in Section 6.01(a), 6.01(b), 6.01(c), 6.01(d) or 6.01(e) hereof shall release any Separate-co from honoring its existing obligations to indemnify any director, officer or employee of any Group who was a director, officer or employee of such Separate-co on or prior to the Effective Time, to the extent that such director, officer or employee becomes a named defendant in any litigation involving such Separate-co and was entitled to such indemnification pursuant to then existing obligations.

(g) TM Spinco shall not make, and shall not permit any other member of the TM Group to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any other Separate-co or any member of any other Group or any other Person released pursuant to Section 6.01(a), with respect to any Liabilities released pursuant to Section 6.01(a).

(h) Interval Spinco shall not make, and shall not permit any other member of the Interval Group to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any other

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Separate-co or any member of any other Group or any other Person released pursuant to Section 6.01(b), with respect to any Liabilities released pursuant to Section 6.01(b).

(i) HSN Spinco shall not make, and shall not permit any other member of the HSN Group to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any other Separate-co or any member of any other Group or any other Person released pursuant to Section 6.01(c), with respect to any Liabilities released pursuant to Section 6.01(c).

(j) Tree Spinco shall not make, and shall not permit any other member of the Tree Group to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any other Separate-co or any member of any other Group or any other Person released pursuant to Section 6.01(d), with respect to any Liabilities released pursuant to Section 6.01(d).

(k) IAC shall not make, and shall not permit any other member of the IAC Group to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any Spinco or any other member of any Spinco Group or any other Person released pursuant to Section 6.01(e), with respect to any Liabilities released pursuant to Section 6.01(e).

6.02. Indemnification by Spinco. Except as provided in Sections 6.04 and 6.05 and subject to Section 13.01, each Spinco shall, and shall cause the other members of its Corresponding Group to, fully indemnify, defend and hold harmless each other Separate-co, each other member of each other Group and each of their respective current and former directors, officers and employees, and each of the heirs, executors, trustees, administrators, successors and assigns of any of the foregoing (collectively, such Spinco's "Corresponding Other Separate-cos Indemnified Parties"), from and against any and all Liabilities of its Corresponding Other Separate-cos Indemnified Parties relating to, arising out of or resulting from any of the following items (without duplication):

- (a) with respect to such Spinco, the Corresponding Business, any Corresponding Entity, any Corresponding Asset, any Corresponding Liability or, subject to Article III, any Deferred Spun Asset;
- (b) any breach of, or failure to perform or comply with, any covenant, undertaking or obligation of, this Agreement or any of the Ancillary Agreements, by such Spinco or any other member of its Corresponding Group, subject to any limitation on liability set forth in any Ancillary Agreement for any such breach or failure to perform or comply with any covenant, undertaking or obligation under such Ancillary Agreement; and
- (c) any untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case to the extent relating to such Spinco's Corresponding Group or Corresponding Business contained in any Registration Statement or any other filings made with the SEC in connection with the Separation and the Distributions.

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6.03. Indemnification by IAC. Except as provided in Sections 6.04 and 6.05 and subject to Section 13.01, IAC shall indemnify, defend and hold harmless each Spinco, each other member of each Spinco Group and each of their respective current and former directors, officers and employees, and each of the heirs, executors, trustees, administrators, successors and assigns of any of the foregoing (collectively, the "Non-IAC Indemnified Parties"), from and against any and all Liabilities of the Non-IAC Indemnified Parties relating to, arising out of or resulting from any of the following items (without duplication):

- (a) any Remaining IAC Business or any Retained Liability;
- (b) any breach of, or failure to perform or comply with, any covenant, undertaking or obligation of, this Agreement or any of the Ancillary Agreements, by IAC or any other member of the IAC Group, subject to any limitation on liability set forth in any Ancillary Agreement for any such breach or failure to perform or comply with any covenant, undertaking or obligation under such Ancillary Agreement;
- (c) except to the extent set forth in Section 6.02(c), any untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, contained in any Registration Statement or Prospectus forming a part thereof; and
- (d) any determination by a court of competent jurisdiction (whether or not in a final, non-appealable judgment) that any of the Spinco's has any liability (whether direct or indirect) for the payment of the IAC Notes; it being understood that in the event of any such determination, IAC shall be entitled to elect either of the following options: (1) IAC shall make arrangements that are reasonably satisfactory to any such Spinco to provide assurance that IAC has the financial wherewithal to promptly satisfy the IAC Notes or (2) IAC shall repay, redeem, satisfy and discharge, or otherwise retire the IAC Notes; provided, that if such determination could reasonably be expected to result in a default under any of such Spinco's indebtedness, then such Spinco shall be entitled to require IAC to exercise option (2) above.

6.04. Procedures for Indemnification of Third Party Claims. (a) All claims for indemnification relating to a Third Party Claim by any indemnified party (an "Indemnified Party") hereunder shall be asserted and resolved as set forth in this Section 6.04.

(b) In the event that any written claim or demand for which an indemnifying party (an "Indemnifying Party") may have liability to any Indemnified Party hereunder, is asserted against or sought to be collected from any Indemnified Party by a Third Party (a "Third Party Claim"), such Indemnified Party shall promptly, but in no event more than ten (10) days following such Indemnified Party's receipt of a Third Party Claim, notify the Indemnifying Party in writing of such Third Party Claim, the amount or the estimated amount of damages sought thereunder to the extent then ascertainable (which estimate shall not be conclusive of the final amount of such Third Party Claim), any other remedy sought thereunder, any relevant time constraints relating thereto and, to the extent practicable, and any other material details pertaining thereto (a "Claim Notice"); provided, however, that the failure to timely give a Claim Notice shall affect the rights of an Indemnified Party hereunder only to the extent that such failure has a material prejudicial effect on the defenses or other rights available to the

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Indemnifying Party with respect to such Third Party Claim. The Indemnifying Party shall have thirty (30) days (or such lesser number of days set forth in the Claim Notice as may be required by court proceeding in the event of a litigated matter) after receipt of the Claim Notice (the "Notice Period") to notify the Indemnified Party whether it desires to defend the Indemnified Party against such Third Party Claim; provided that in the event a Claim Notice in respect of indemnification sought pursuant to Section 6.02(c) so specifies, the Indemnified Party shall have the right to require the Indemnifying Party, and in such event the Indemnifying Party shall be required, to defend the Indemnified Party against such Third Party Claim at the Indemnifying Party's expense.

(c) In the event that the Indemnifying Party notifies the Indemnified Party within the Notice Period that it desires to defend the Indemnified Party against a Third Party Claim, the Indemnifying Party shall have the right to defend the Indemnified Party by appropriate proceedings and shall have the sole power to direct and control such defense, with counsel reasonably satisfactory to the Indemnified Party at the Indemnifying Party's expense. Once the Indemnifying Party has duly assumed the defense of a Third Party Claim, the Indemnified Party shall have the right, but not the obligation, to participate in any such defense and to employ separate counsel of its choosing. The Indemnified Party shall participate in any such defense at its expense, provided that such expense shall be the responsibility of the Indemnifying Party if (i) the Indemnifying Party and the Indemnified Party are both named parties to the proceedings and the Indemnified Party shall have reasonably concluded that representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them (in which case the Indemnifying Party shall not be responsible for expenses in respect of more than one counsel for the Indemnified Party in any single jurisdiction), or (ii) the Indemnified Party assumes the defense of a Third Party Claim after the Indemnifying Party has failed to diligently defend a Third Party Claim it has assumed the defense of, as provided in the first sentence of this Section 6.04(c). The Indemnifying Party shall not, without the prior written consent of the Indemnified Party, settle, compromise or offer to settle or compromise any Third Party Claim on a basis that would result in (i) the imposition of a consent order, injunction or decree that would restrict the future activity or conduct of the Indemnified Party or any of its Affiliates, (ii) a finding or admission of a violation of Applicable Law or violation of the rights of any Person by the Indemnified Party or any of its Affiliates or (iii) a finding or admission that would have an adverse effect on other claims made or threatened against the Indemnified Party or any of its Affiliates.

(d) If the Indemnifying Party (i) elects not to defend the Indemnified Party against a Third Party Claim, whether by not giving the Indemnified Party timely notice of its desire to so defend or otherwise or (ii) after assuming the defense of a Third Party Claim or after receiving a Claim Notice specified in the proviso to the last sentence of Section 6.04(b), fails to take reasonable steps necessary to defend diligently such Third Party Claim within ten (10) days after receiving written notice from the Indemnified Party to the effect that the Indemnifying Party has so failed, the Indemnified Party shall have the right but not the obligation to assume its own defense; it being understood that the Indemnified Party's right to indemnification for a Third Party Claim shall not be adversely affected by assuming the defense of such Third Party Claim. The Indemnified Party shall not settle a Third Party Claim without the consent of the Indemnifying Party, which consent shall not be unreasonably withheld.

(e) The Indemnified Party and the Indemnifying Party shall cooperate in order to ensure the proper and adequate defense of a Third Party Claim, including by providing access to each other's relevant business records and other documents, and employees; it being understood that the reasonable costs and expenses of the Indemnified Party relating thereto shall be Liabilities, subject to indemnification.

(f) The Indemnified Party and the Indemnifying Party shall use commercially reasonable efforts to avoid production of confidential information (consistent with Applicable Law), and to cause all communications among employees, counsel and others representing any party to a Third Party Claim to be made so as to preserve any applicable attorney-client or work-product privileges.

6.05. Procedures for Indemnification of Direct Claims. Any claim for indemnification made directly by the Indemnified Party against the Indemnifying Party that does not result from a Third Party Claim shall be asserted by written notice from the Indemnified Party to the Indemnifying Party specifically claiming indemnification hereunder. Such Indemnifying Party shall have a period of 45 days after the receipt of such notice within which to respond thereto. If such Indemnifying Party does not respond within such 45-day period, such Indemnifying Party shall be deemed to have accepted responsibility to make payment and shall have no further right to contest the validity of such claim. If such Indemnifying Party does respond within such 45-day period and rejects such claim in whole or in part, such Indemnified Party shall be free to pursue resolution as provided in Article IX.

6.06. Adjustments to Liabilities. (a) If an Indemnified Party receives any payment from an Indemnifying Party in respect of any Liabilities and the Indemnified Party could have recovered all or a part of such Liabilities from a Third Party (a "Potential Contributor") based on the underlying claim or demand asserted against such Indemnifying Party, such Indemnified Party shall, to the extent permitted by Applicable Law, assign such of its rights to proceed against the Potential Contributor as are necessary to permit such Indemnifying Party to recover from the Potential Contributor the amount of such payment.

(b) If notwithstanding Section 6.06(a) an Indemnified Party receives an amount from a Third Party in respect of a Liability that is the subject of indemnification hereunder after all or a portion of such Liability has been paid by an Indemnifying Party pursuant to this Agreement, the Indemnified Party shall promptly remit to the Indemnifying Party the excess (if any) of (i) the amount paid by the Indemnifying Party in respect of such Liability, plus the amount received from the Third Party in respect thereof, over (ii) the full amount of the Liability.

(c) An insurer who would otherwise be obligated to pay any claim shall not be relieved of the responsibility with respect thereto or, solely by virtue of the indemnification provisions hereof, have any subrogation rights with respect thereto, it being expressly understood and agreed that no insurer or any other Third Party shall be entitled to a "wind-fall" (i.e., a benefit they would not be entitled to receive in the absence of the indemnification provisions) by virtue of the indemnification provisions hereof.

6.07. Payments. The Indemnifying Party shall pay all amounts payable pursuant to this Article VI by wire transfer of immediately available funds, promptly following receipt from an Indemnified Party of a bill, together with all accompanying reasonably detailed backup documentation, for a Liability that is the subject of indemnification hereunder, unless the Indemnifying Party in good faith disputes the Liability, in which event it shall so notify the Indemnified Party. In any event, the Indemnifying Party shall pay to the Indemnified Party, by wire transfer of immediately available funds, the amount of any Liability for which it is liable hereunder no later than three (3) days following any final determination of such Liability and the Indemnifying Party's liability therefor. A "final determination" shall exist when (a) the parties to the dispute have reached an agreement in writing, (b) a court of competent jurisdiction shall have entered a final and non-appealable order or judgment, or (c) an arbitration or like panel shall have rendered a final non-appealable determination with respect to disputes the parties have agreed to submit thereto.

6.08. Contribution. If the indemnification provided for in this Article VI shall, for any reason, be unavailable or insufficient to hold harmless the Indemnified Party hereunder in respect of any Liability, then each Indemnifying Party shall, in lieu of indemnifying such Indemnified Party, contribute to the amount paid or payable by such Indemnified Party as a result of such Liability, in such proportion as shall be sufficient to place the Indemnified Party in the same position as if such Indemnified Party were indemnified hereunder, the Parties intending that their respective contributions hereunder be as close as possible to the indemnification under Sections 6.02 and 6.03. If the contribution provided for in the previous sentence shall, for any reason, be unavailable or insufficient to put the Indemnified Party in the same position as if it were indemnified under Section 6.02 or 6.03, as the case may be, then the Indemnifying Party shall contribute to the amount paid or payable by such Indemnified Party as a result of such Liability, in such proportion as shall be appropriate to reflect the relative benefits received by and the relative fault of the Indemnifying Party on the one hand and the Indemnified Party on the other hand with respect to the matter giving rise to the Liability.

6.09. Remedies Cumulative. The remedies provided in this Article VI shall be cumulative and, subject to the provisions of Article IX, shall not preclude assertion by any Indemnified Party of any other rights or the seeking of any and all other remedies against any Indemnifying Party.

6.10. Survival of Indemnities. The rights and obligations of each of the Separate-cos and their respective Indemnified Parties under this Article VI shall survive the distribution, sale or other transfer by any Party of any Assets or the delegation or assignment by it of any Liabilities.

6.11. Shared Liabilities. Notwithstanding anything to the contrary contained in this Agreement:

(a) In order to facilitate the defense of any Shared Liability, the Parties agree that (i) the relevant Parties shall cooperate in the defense of any Shared Liability; (ii) each relevant Party shall be responsible for the costs of its own in-house counsel and other internal personnel in the defense of any Shared Liability; (iii) IAC shall be entitled to control the defense and/or settlement of any Shared Liability, although each relevant Spinco shall be entitled to

observe with counsel of its own selection and at its own expense provided, however, that after the Effective Time IAC shall not settle all or any portion of any Shared Liability unless any remaining Liability of any Spinco and its Affiliates and their respective current and former officers and directors relating to the Shared Liability will be fully released as a result of such settlement.

(b) The Parties agree to act in good faith and to use their reasonable best efforts to preserve and maximize the insurance benefits due to be provided under all policies of insurance and to cooperate with one another as necessary to permit each other to access or obtain the benefits under those policies; provided, however, that nothing hereunder shall be construed to prevent any party or any other Person from asserting claims for insurance benefits or accepting insurance benefits provided by the policies. The Parties agree to exchange information upon reasonable request of the other Party regarding requests that they have made for insurance benefits, notices of claims, occurrences and circumstances that they have submitted to the insurance companies or other entities managing the policies, responses they have received from those insurance companies or entities, including any payments they have received from the insurance companies and any agreements by the insurance companies to make payments, and any other information that the Parties may need to determine the status of the insurance policies and the continued availability of benefits thereunder.

(c) If any Party receives notice or otherwise learns of the assertion by any person or entity (including a Governmental Authority) of a Shared Liability, that Party shall give the other Parties written notice of such Shared Liability, providing notice of such Shared Liability in reasonable detail. The failure to give notice under this subsection shall not relieve any Party of its Liability for any Shared Liability except to the extent the Party is actually prejudiced by the failure to give such notice. The Parties shall be deemed to be on notice of any Shared Liability pending prior to the Effective Time.

## ARTICLE VII INSURANCE

7.01. Insurance Matters. (a) Each Spinco does hereby, for itself and each other member of its Corresponding Group, agree that no member of the IAC Group or any IAC Indemnified Party shall have any liability whatsoever as a result of the insurance policies and practices of IAC and its Affiliates as in effect at any time prior to the Effective Time, including as a result of the level or scope of any such insurance, the creditworthiness of any insurance carrier, the terms and conditions of any policy, the adequacy or timeliness of any notice to any insurance carrier with respect to any claim or potential claim or otherwise; provided this Section 7.01(a) shall not negate IAC's agreement under Section 7.01(b).

(b) IAC agrees to use its reasonable best efforts to cause the interest and rights of each Spinco and the other members of its Corresponding Group as of the Relevant Time as insureds or beneficiaries or in any other capacity under occurrence-based insurance policies and programs (and under claims-made policies and programs to the extent a claim has been submitted prior to the Relevant Time) of IAC or any other member of the IAC Group in respect of periods prior to the Relevant Time to survive the Relevant Time for the period for which such interests and rights would have survived without regard to the transactions contemplated hereby

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to the extent permitted by such policies, and IAC shall continue to administer such policies and programs on behalf of the relevant Spinco and the other relevant members of the Spinco Groups, subject to such Spinco's reimbursement to IAC and the other relevant members of the IAC Group for the actual out-of-pocket costs of such ongoing administration and the internal costs (based on the proportion of the amount of time actually spent on such matter to such employee's normal working time) of any employee or agent of IAC of any other relevant member of the IAC Group who will be required to spend at least ten percent of his or her normal working time over any ten (10) Business Days working with respect to any such matter on behalf of a Spinco or any member of its Corresponding Group. Any proceeds received by IAC or any other member of the IAC Group after the Relevant Time under such policies and programs in respect of a Spinco or other members of its Corresponding Group shall be for the benefit of such Spinco and such other members.

(c) This Agreement is not intended as an attempted assignment of any policy of insurance or as a contract of insurance and shall not be construed to waive any right or remedy of any member of the IAC Group in respect of any insurance policy or any other contract or policy of insurance.

(d) Nothing in this Agreement shall be deemed to restrict any member of any Spinco Group from acquiring at its own expense any other insurance policy in respect of any Liabilities or covering any period.

## ARTICLE VIII EXCHANGE OF INFORMATION; CONFIDENTIALITY

8.01. Agreement for Exchange of Information: Archives. (a) Without limiting any rights or obligations under any Ancillary Agreement between the Parties and/or any other member of their respective Groups relating to confidentiality, each Party agrees to provide, and to cause its Representatives, its Group members and its respective Group members' Representatives to provide, to the other Groups and any member thereof (a "Requesting Party"), at any time before, on or after the Effective Time, subject to the provisions of Section 8.04 and as soon as reasonably practicable after written request therefor, any Information within the possession or under the control of such Party or one of such Persons which the Requesting Party reasonably needs (i) to comply with reporting, disclosure, filing or other requirements imposed on the Requesting Party (including under applicable securities laws) by a Governmental Authority having jurisdiction over the Requesting Party, (ii) for use in any other judicial, regulatory, administrative or other proceeding or in order to satisfy audit, accounting, claims, regulatory, litigation or similar requirements of the Requesting Party, in each case other than claims or allegations that one Party to this Agreement or any of its Group members has or brings against the other Party or any of its Group members, or (iii) subject to the foregoing clause (ii) above, to comply with its obligations under this Agreement or any Ancillary Agreement; provided, however, that in the event that any Party determines that any such provision of Information could be commercially detrimental, violate any Applicable Law or agreement, or waive any attorney-client privilege, the Parties shall take all reasonable measures to permit the compliance with such obligations in a manner that avoids any such harm or consequence. More particularly, and without limitation to the generality of the foregoing sentence, the Parties agree

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that the provisions of the Tax Sharing Agreement shall govern with respect to the sharing of Information relating to Tax.

(b) After the Effective Time, each Spinco and the other members of its Spinco Group shall have access during regular business hours (as in effect from time to time), and upon reasonable advance notice, to the documents and objects of historical significance that relate to the Spun Businesses, the Spun Assets or the Spun Entities with respect to such Spinco and that are located in archives retained or maintained by (i) IAC or any other member of the IAC Group or (ii) by another Spinco or any other member of another Spinco Group. Each Spinco and the other members of its Spinco Group may obtain copies (but not originals) of documents for bona fide business purposes and may obtain objects for exhibition purposes for commercially reasonable periods of time if required for bona fide business purposes, provided that (i) such Spinco shall cause any such objects to be returned promptly, at such Spinco's expense, in the same condition in which they were delivered to such Spinco or to any member of its Spinco Group and (ii) such Spinco and the other members of its Spinco Group shall comply with any rules, procedures or other requirements, and shall be subject to any restrictions (including prohibitions on removal of specified objects), that are then applicable to such other Separate-co or such other member of such other Separate-co's Group. In any event, the foregoing shall not be deemed to restrict the access of IAC or any other member of the IAC Group to any such documents or objects. Nothing herein shall be deemed to impose any Liability on IAC or any other member of the IAC Group if documents or objects referred to in this Section 9.01 are not maintained or preserved by IAC or any other member of the IAC Group. Alternatively, IAC, acting reasonably, may request from any Spinco and any other member of such Spinco's Group that they provide IAC with reasonable advance notice, with a list of the requested Information that relates to the relevant Spun Businesses, the Spun Assets or the Spun Entities and IAC shall use, and shall cause the other members of the IAC Group that are in possession of the Information requested to use, commercially reasonable efforts to locate all requested Information that is owned or possessed by IAC or any of its Group members or Representatives. IAC will make available all such Information for inspection by the relevant Spinco or any other relevant member of any Spinco Group during normal business hours at the place of business reasonably designated by IAC. Subject to such confidentiality or security obligations as IAC or the other relevant members of its Group may reasonably deem necessary, the Spinco and the other relevant members of the Spinco Groups may have all requested Information duplicated. Alternatively, IAC or the other relevant members of the IAC Group may choose to deliver to a Spinco, at such Spinco's expense, all requested Information in the form reasonably requested by such Spinco or any other member of its Group. At IAC's request, such Spinco shall cause such Information when no longer needed to be returned to IAC at such Spinco's expense.

(c) With respect to the other Spinco Groups and the IAC Group, each Spinco shall make available and shall cause its Corresponding Group to make available to the other Spinco Groups and the IAC Group at least the level of access provided by the IAC Group under Section 8.01(b) to all Spinco Groups.

8.02. Ownership of Information. Any Information owned by a Party or any of its Group members and that is provided to a Requesting Party pursuant to Section 8.01 shall be deemed to remain the property of the providing party. Unless specifically set forth herein or in

any Ancillary Agreement, nothing contained in this Agreement shall be construed as granting or conferring rights of license or otherwise in any such Information.

8.03. Compensation for Providing Information. The Party requesting Information agrees to reimburse the providing Party for the reasonable costs, if any, of creating, gathering and copying such Information, to the extent that such costs are incurred for the benefit of the Requesting Party. Except as may be otherwise specifically provided elsewhere in this Agreement, in the Ancillary Agreements, or in any other agreement between the Parties, such costs shall be computed in accordance with the providing Party's standard methodology and procedures.

8.04. Record Retention. To facilitate the possible exchange of Information pursuant to this Article VIII and other provisions of this Agreement after the Effective Time, the Parties agree to use commercially reasonable efforts to retain, and to cause the members of their respective Group to retain, all Information in their respective possession or control at the Effective Time in accordance with the policies of the IAC Group as in effect at the Effective Time or such other policies as may be reasonably adopted by the appropriate Party after the Effective Time. No Party will destroy, or permit any member of its Group to destroy, any Information which another Party or any member of its Group may have the right to obtain pursuant to this Agreement prior to the fifth (5th) anniversary of the Effective Time without first using commercially reasonable efforts to notify such other Party of the proposed destruction and giving such other Party the opportunity to take possession of such Information prior to such destruction.

8.05. Other Agreements Providing for Exchange of Information. The rights and obligations granted or created under this Article VIII are subject to any specific limitations, qualifications or additional provisions on the sharing, exchange, retention or confidential treatment of Information set forth in any Ancillary Agreement.

8.06. Production of Witnesses; Records; Cooperation. (a) After the Effective Time, but only with respect to a Third Party Claim, each Party hereto shall use commercially reasonable efforts to, and shall cause the other relevant members of its Group to use commercially reasonable efforts to, make available to a requesting Party or any member of the Group to which such Requesting Party belongs, upon written request, its then former and current Representatives (and the former and current Representatives of its respective Group members) as witnesses and any books, records or other documents within its control (or that of its respective Group members) or which it (or its respective Group members) otherwise has the ability to make available, to the extent that any such person (giving consideration to business demands of such Representatives) or books, records or other documents may reasonably be required in connection with any Action in which the Requesting Party may from time to time be involved, regardless of whether such Action is a matter with respect to which indemnification may be sought hereunder. The Requesting Party shall bear all costs and expenses in connection therewith.

(b) If a Party, being entitled to do so under this Agreement, chooses to defend or to seek to settle or compromise any Third Party Claim, the other relevant Party or Parties shall use commercially reasonable efforts to make available to such Party, upon written request, its or their then former and current Representatives and those of its or their respective Group members

as witnesses and any books, records or other documents within its or their control (or that of its or their respective Group members) or which it or they (or its or their respective Group members) otherwise has or have the ability to make available, to the extent that any such Person (giving consideration to business demands of such Representatives) or books, records or other documents may reasonably be required in connection with such defense, settlement or compromise, as the case may be, and shall otherwise cooperate in such defense, settlement or compromise, as the case may be.

(c) Without limiting the foregoing, the Parties shall cooperate and consult, and shall cause their respective Group members to cooperate and consult, to the extent reasonably necessary with respect to any Actions (except in the case of an Action by one Party against another).

(d) The obligation of the Parties to provide witnesses pursuant to this Section 8.06 is intended to be interpreted in a manner so as to facilitate cooperation and shall include the obligation to provide as witnesses inventors and other employees without regard to whether the witness or the employer of the witness could assert a possible business conflict (subject to the limitation set forth in the first sentence of Section 8.06(a) regarding Third Party Claims).

(e) In connection with any matter contemplated by this Section 8.06, the relevant Parties will enter into, and shall cause all other relevant members of their respective Groups to enter into, a mutually acceptable joint defense agreement so as to maintain to the extent practicable any applicable attorney-client privilege or work-product privileges of any member of any Group.

8.07. Confidentiality. (a) Subject to Section 8.08, each Separate-co shall hold, and shall cause its respective Group members and its respective Affiliates (whether now an Affiliate or hereafter becoming an Affiliate) and its Representatives to hold, in strict confidence, with at least the same degree of care that applies to IAC's confidential and proprietary Information pursuant to policies in effect as of the Effective Time, all confidential and proprietary Information concerning another Group (or any member thereof) that is either in such Separate-co's possession (including Information in its possession prior to the date hereof) or furnished by any other Group (or any member thereof) or by any of such other Group's Affiliates (whether now an Affiliate or hereafter becoming an Affiliate) or their respective Representatives at any time pursuant to this Agreement or any Ancillary Agreement or the transactions contemplated hereby or thereby (any such Information referred to herein as "Confidential Information"), and shall not use, and shall cause its respective Group members, Affiliates and Representatives not to use, any such Confidential Information other than for such purposes as shall be expressly permitted hereunder or thereunder. Notwithstanding the foregoing, Confidential Information shall not include Information that is or was (i) in the public domain other than by the breach of this Agreement or by breach of any other agreement relating to confidentiality between or among the relevant Parties and/or their respective Group members, their respective Affiliates or Representatives, (ii) lawfully acquired by such disclosing Party (or any member of the Group to which such Party belongs or any of such Party's Affiliates) from a Third Party not bound by a confidentiality obligation, or (iii) independently generated or developed by Persons who do not have access to, or descriptions of, any such confidential or

proprietary Information of the other Parties (or any member of the Group to which such other Party belongs).

(b) Each Party shall maintain, and shall cause its respective Group members to maintain, policies and procedures, and develop such further policies and procedures as will from time to time become necessary or appropriate, to ensure compliance with Section 8.07(a).

(c) Each Party agrees not to release or disclose, or permit to be released or disclosed, any Confidential Information to any other Person, except its Representatives who need to know such Confidential Information (who shall be advised of their obligations hereunder with respect to such Confidential Information), except in compliance with Section 8.08. Without limiting the foregoing, when any Information furnished by another Party after the Effective Time pursuant to this Agreement or any Ancillary Agreement is no longer needed for the purposes contemplated by this Agreement or any Ancillary Agreement, such Party will promptly, after request of the furnishing Party and at the election of the Party receiving such request, destroy or return to the furnishing Party all such Information in a printed or otherwise tangible form

(including all copies thereof and all notes, extracts or summaries based thereon), and destroy all Information in an electronic or otherwise intangible form and certify to the furnishing Party that it has destroyed such Information (and such copies thereof and such notes, extracts or summaries based thereon). Notwithstanding the foregoing, the Parties agree that to the extent some Information to be destroyed or returned is retained as data or records for the purpose of business continuity planning or is otherwise not accessible in the Ordinary Course of Business, such data or records shall be destroyed in the Ordinary Course of Business in accordance, if applicable, with the business continuity plan of the applicable Party.

8.08. Protective Arrangements. In the event that any Party or any member of its Group or any Affiliate of such Party or any of their respective Representatives either determines that it is required to disclose any Confidential Information (the “Disclosing Party”) pursuant to Applicable Law or receives any demand under lawful process or from any Governmental Authority to disclose or provide Confidential Information of another Party (or any member of the Group to which such other Party belongs) (the “Providing Party”), the Disclosing Party shall, to the extent permitted by Applicable Law, promptly notify the Providing Party prior to the Disclosing Party disclosing or providing such Confidential Information and shall use commercially reasonable efforts to cooperate with the Providing Party so that the Providing Party may seek any reasonable protective arrangements or other appropriate remedy and/or waive compliance with this Section 8.08. All expenses reasonably incurred by the Disclosing Party in seeking a protective order or other remedy will be borne by the Providing Party. Subject to the foregoing, the Disclosing Party may thereafter disclose or provide such Confidential Information to the extent (but only to the extent) required by such Applicable Law (as so advised by legal counsel) or by lawful process or by such Governmental Authority and shall promptly provide the Providing Party with a copy of the Confidential Information so disclosed, in the same form and format as disclosed, together with a list of all Persons to whom such Confidential Information was disclosed.

8.09. Disclosure of Third Party Information. Each Spinco acknowledges that it and the other members of its respective Group may have in its or their possession confidential or proprietary Information of Third Parties that was received under confidentiality or non-disclosure

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agreements with such Third Party while it or they were part of the IAC Group. Each Spinco will hold, and will cause the other members of its Group and its and their respective Representatives to hold, in strict confidence the confidential and proprietary Information of Third Parties to which such Spinco or any other member of its respective Group has access, in accordance with the terms of any agreements entered into prior to the Effective Time between one or more members of another Group (whether acting through, on behalf of, or in connection with, the Spun Businesses) and such Third Parties.

## ARTICLE IX DISPUTE RESOLUTION

### 9.01. Interpretation: Agreement to Resolve Disputes

(a) In the event of any ambiguous provision in this Agreement or in any Ancillary Agreement, or any inconsistency or conflict between or among the provisions of this Agreement and one or more Ancillary Agreements or between or among the provisions of the Ancillary Agreements, IAC’s interpretation of such ambiguity or resolution of such inconsistency or conflict shall be final and binding unless such interpretation or resolution is unreasonable or clearly erroneous; it being understood and agreed that the reasonableness of an interpretation or resolution shall be assessed without regard to whether such interpretation or resolution happens to be in IAC’s self-interest.

(b) Except as otherwise specifically provided in any Ancillary Agreement, the procedures for discussion, negotiation and dispute resolution set forth in this Article IX shall apply to all disputes, controversies or claims (whether sounding in contract, tort or otherwise) that may arise out of or relate to, or arise under or in connection with this Agreement or any Ancillary Agreement, or the transactions contemplated hereby or thereby (including all actions taken in furtherance of the transactions contemplated hereby or thereby on or prior to the date hereof), or the commercial or economic relationship of the Parties relating hereto or thereto, between or among any member of any Group on the one hand and any other Group on the other hand. Each Party agrees on behalf of itself and each member of its respective Group that the procedures set forth in this Article IX shall be the sole and exclusive procedures in connection with any dispute, controversy or claim relating to any of the foregoing matters and irrevocably waives any right to commence any Action in or before any Governmental Authority, except as otherwise required by Applicable Law.

9.02. Dispute Resolution: Mediation. (a) Any Party (a “Claimant Party”) may commence the dispute resolution process of this Section 9.02 by giving the other Party or Parties with whom there is such a controversy, claim or dispute written notice (a “Dispute Notice”) of any controversy, claim or dispute of whatever nature arising out of or relating to this Agreement or the breach, termination, enforceability or validity thereof (a “Dispute”) which has not been resolved in the normal course of business. The relevant Parties shall attempt in good faith to resolve any Dispute by negotiation among executives of such Parties (“Senior Party Representatives”) who have authority to settle the Dispute and who are at a higher level of management than the persons who have direct responsibility for the administration of this Agreement. Within 15 days after delivery of the Dispute Notice, the receiving Party or Parties (the “Responding Parties”) and, together with the Claimant Party, the “Dispute Parties”) shall

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submit to the other Dispute Party or Parties a written response (the “Response”). The Dispute Notice and the Response shall include (i) a statement setting forth the position of the Dispute Party giving such notice and a summary of arguments supporting such position and (ii) the name and title of such Dispute Party’s Senior Party Representative and any other persons who will accompany the Senior Party Representative at the meeting at which the Dispute Parties will attempt to settle the Dispute. Within 30 days after the delivery of the Dispute Notice, the Senior Party Representatives of the Dispute Parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to attempt to resolve the Dispute. The Dispute Parties shall cooperate in good faith with respect to any reasonable requests for exchanges of information regarding the Dispute or a Response thereto.

(b) If the Dispute has not been resolved within 60 days after delivery of the Dispute Notice, or if the Dispute Parties fail to meet within 30 days after delivery of the Dispute Notice as hereinabove provided, the Dispute Parties shall make a good faith attempt to settle the Dispute by mediation pursuant to the provisions of this Section 9.02 before resorting to arbitration contemplated by Section 9.03 or any other dispute resolution procedure that may be agreed by the Dispute Parties.

(c) All negotiations, conferences and discussions pursuant to this Section 9.02 shall be confidential and shall be treated as compromise and settlement negotiations. Nothing said or disclosed, nor any document produced, in the course of such negotiations, conferences and discussions that is not otherwise independently discoverable shall be offered or received as evidence or used for impeachment or for any other purpose in any current or future arbitration.

(d) Unless the Dispute Parties agree otherwise, the mediation shall be conducted in accordance with the CPR Institute for Dispute Resolution Model Procedure for Mediation of Business Disputes in effect on the date of this Agreement by a mediator selected by the Dispute Parties.

(e) Within 30 days after the mediator has been selected as provided above, all Dispute Parties and their respective attorneys shall meet with the mediator for one mediation session of at least four hours, it being agreed that each representative of a Dispute Party attending such mediation session shall be a Senior Party Representative with authority to settle the Dispute. If the Dispute cannot be settled at such mediation session or at any mutually agreed continuation thereof, any of the Dispute Parties may give the other and the mediator a written notice declaring the mediation process at an end.

9.03. Arbitration. If the Dispute has not been resolved by the dispute resolution process described in Section 9.02, the Dispute Parties agree that any such Dispute shall be settled by binding arbitration before the American Arbitration Association (“AAA”) in Wilmington, Delaware pursuant to the Commercial Rules of the

AAA. Any arbitrator(s) selected to resolve the Dispute shall be bound exclusively by the laws of the State of Delaware without regard to its choice of law rules. Any decisions of award of the arbitrator(s) will be final and binding upon the Dispute Parties and may be entered as a judgment by the Dispute Parties hereto. Any rights to appeal or review such award by any court or tribunal are hereby waived to the extent permitted by law.

9.04. Costs. The costs of any mediation or arbitration pursuant to this Article IX shall be shared equally among the Dispute Parties.

9.05. Continuity of Service and Performance. Unless otherwise agreed in writing, the Dispute Parties will continue to provide service and honor all other commitments under this Agreement and each Ancillary Agreement during the course of dispute resolution pursuant to the provisions of this Article IX with respect to all matters not subject to such dispute, controversy or claim.

#### ARTICLE X FURTHER ASSURANCES

10.01. Further Assurances. (a) Except as provided in Section 12.01, each Party covenants with and in favor of the other Parties as follows:

(i) prior to, on and after the Effective Time, each Party hereto shall, and shall cause the other relevant members of its Group to, cooperate with the other Parties, and without any further consideration, but at the expense of the requesting Party, to execute, acknowledge and deliver, or use commercially reasonable efforts to cause to be executed and delivered, all instruments, assurances or documents, including instruments of conveyance, assignments and transfers, and to make all filings with, and to obtain all consents, approvals or authorizations of, any Governmental Authority or any other Person under any permit, license, agreement, indenture or other instrument (including any Consents or Governmental Authorizations), and to take all such other actions as such Party may reasonably be requested to take by the requesting Party (or any member of its Group) from time to time, consistent with the terms of this Agreement and the Ancillary Agreements, in order to give effect to the provisions, obligations and purposes of this Agreement and the Ancillary Agreements and the transfers of the Spun Businesses and of the Spun Assets and the assignment and assumption of the Spun Liabilities and the other transactions contemplated hereby and thereby; and

(ii) to the extent that IAC or any Spinco discovers at any time following the Effective Time any Asset that was intended to be transferred to any Separate-co or any other member of another Spinco Group pursuant to this Agreement was not so transferred at the Effective Time, IAC and the Spinco shall, or shall cause the other relevant members of their Corresponding Groups to promptly, assign and transfer to such Separate-co or another member of such Separate-co's Group reasonably designated by such Separate-co such Asset and all right, title and interest therein in a manner and on the terms consistent with the relevant provisions of this Agreement, including, without limitation, Section 2.17(b). Similarly, to the extent that IAC or any Spinco discovers at any time following the Effective Time any Asset that was intended to be retained by IAC or any other member of the IAC Group was not so retained at the Effective Time, the relevant Spinco shall, or shall cause the other relevant members of its Group to promptly, assign and transfer to IAC or any other member of the IAC Group reasonably designated by IAC such Asset and all right, title and interest therein in a manner and on the terms consistent with the relevant provisions of this Agreement, including, without limitation, Section 2.17(b). For the avoidance of doubt, the transfer of any Assets under

this paragraph (a) shall be effected without any additional consideration by any Party hereunder (such deferred transfers being referred to as Deferred Transactions”).

(b) On or prior to the Effective Time, each of the Separate-cos, in their respective capacities as direct and indirect parent companies of the members of their respective Groups, shall each approve or ratify any actions of the members of their respective Groups as may be necessary or desirable to give effect to the transactions contemplated by this Agreement and the Ancillary Agreements.

(c) Prior to the Effective Time, if a Party identifies any commercial or other service that is needed to assure a smooth and orderly transition of the businesses in connection with the consummation of the transactions contemplated hereby, and that is not otherwise governed by the provisions of this Agreement or any Ancillary Agreement, the relevant Parties will cooperate in determining whether there is a mutually acceptable arms' length basis on which the such Party can provide such service.

#### ARTICLE XI CERTAIN OTHER MATTERS

11.01. Auditors and Audits; Annual and Quarterly Financial Statements and Accounting. Each Party agrees that during the one hundred and eighty (180) days following the Effective Time and in any event solely with respect to the preparation and audit of each of IAC's and each Spinco's financial statements for the year ended December 31, 2008, the printing, filing and public dissemination of such financial statements, the audit of IAC's internal control over financial reporting and management's assessment thereof and management's assessment of IAC's disclosure controls and procedures, in each case made as of December 31, 2008:

(a) Date of Spinco Auditors' Opinions. Each Spinco shall use commercially reasonable efforts to enable such Spinco's auditors (in each case, such auditors, the "Spinco Auditor") to complete their audit such that they will date their opinion on such Spinco's audited annual financial statements on the same date that the IAC's auditors (the "IAC Auditor") date their opinion on IAC's audited annual financial statements (except to the extent an earlier date is necessary to comply with SEC rules), and to enable IAC to meet its timetable for the printing, filing and public dissemination of IAC's annual financial statements.

(b) Annual Financial Statements. Each (i) Separate-co shall provide to the other Separate-cos on a timely basis all Information reasonably required to meet such Separate-co's schedule for the preparation, printing, filing, and public dissemination of its annual financial statements and for management's assessment of the effectiveness of its disclosure controls and procedures in accordance with Item 307 of Regulation S-K and (ii) each Spinco shall provide to the IAC on a timely basis all Information reasonably required to meet IAC's schedule for its report on internal control over financial reporting in accordance with Item 308 of Regulation S-K and its auditor's audit of its internal control over financial reporting and management's assessment thereof in accordance with Section 404 of the Sarbanes-Oxley Act of 2002 and the SEC's and Public Company Accounting Oversight Board's rules and auditing standards thereunder (such assessments and audit being referred to as the "2008 Internal Control Audit and Management Assessments"). Without limiting the generality of the foregoing, each Separate-co

will provide all required financial and other Information with respect to such Separate-co and its Subsidiaries to its respective auditors in a sufficient and reasonable time and in sufficient detail to permit its respective auditors to take all steps and perform all reviews necessary to provide sufficient assistance to the IAC Auditor and each other Spinco Auditor with respect to respective Information to be included or contained in the annual financial statements of such other Separate-co and to permit the IAC Auditor and IAC's management to all complete the 2008 Internal Control Audit and Management Assessments.

(c) Access to Personnel and Books and Records.

(i) Each Spinco (an “Authorizing Spinco”) shall authorize its respective Spinco Auditor (the “Authorized Auditor”) to make available to each of the IAC Auditor and the Spinco Auditor of each other Spinco both the personnel who performed or are performing the annual audits of the Authorizing Spinco and work papers related to the annual audits of the Authorizing Spinco, in all cases within a reasonable time prior to the Authorized Auditor’s opinion date, so that (A) the IAC Auditor is able to perform the procedures it considers necessary to take responsibility for the work of the Authorized Auditor as it relates to the IAC Auditor’s report on IAC’s financial statements, all within sufficient time to enable IAC to meet its timetable for the printing, filing and public dissemination of IAC’s annual financial statements; and (B) each such other Spinco Auditor is able to perform the procedures it considers necessary to take responsibility for the work of the Authorized Auditor as it relates to the relevant Spinco Auditor’s report on such Spinco’s financial statements, all within sufficient time to enable such Spinco to meet its timetable for the printing, filing and public dissemination of such Spinco’s annual financial statements.

(ii) IAC shall authorize the IAC Auditor to make available to each Spinco Auditor both the personnel who performed or are performing the annual audits of IAC and work papers related to the annual audits of IAC, in all cases within a reasonable time prior to the IAC Auditor’s opinion date, so that each Spinco Auditor is able to perform the procedures it considers necessary to take responsibility for the work of the IAC Auditor as it relates to such Spinco Auditor’s report on the relevant Spinco’s financial statements, all within sufficient time to enable such Spinco to meet its timetable for the printing, filing and public dissemination of such Spinco’s annual financial statements.

(iii) Each Spinco shall make available to the IAC Auditor and IAC’s management such Spinco’s personnel and such Spinco’s books and records in a reasonable time prior to the IAC Auditor’s opinion date and IAC’s management’s assessment date so that the IAC Auditor and IAC’s management are able to perform the procedures they consider necessary to conduct the 2008 Internal Control Audit and Management Assessments.

(d) Spinco Annual Reports. Each Spinco will deliver to IAC a substantially final draft, as soon as the same is prepared, of the first report to be filed with the SEC that includes such Spinco’s audited financial statements for the year ended December 31, 2008 (such Spinco’s “Corresponding Annual Report”); provided, however, that a Spinco may continue to

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revise such Corresponding Annual Report prior to the filing thereof, which changes will be delivered to IAC as soon as reasonably practicable provided, further, that the respective personnel of IAC and each Spinco will actively consult with each other regarding any changes which a Spinco may consider making to its Corresponding Annual Report and related disclosures prior to the anticipated filing with the SEC, with particular focus on any changes which would have an effect upon IAC’s financial statements or related disclosures.

Nothing in this Section 11.01 shall require any Party to violate any agreement with any Third Party regarding the confidentiality of confidential and proprietary Information relating to that Third Party or its business; provided, however, that in the event that a Party is required under this Section 11.01 to disclose any such Information, such Party shall use commercially reasonable efforts to seek to obtain such Third Party Consent to the disclosure of such Information.

## ARTICLE XII SOLE DISCRETION OF IAC; TERMINATION

12.01. Sole Discretion of IAC. Notwithstanding any other provision of this Agreement, until the occurrence of the applicable Relevant Time, IAC shall have the sole and absolute discretion:

(a) to determine whether to proceed with all or any part of the Separation, including any Separation Transaction, or any or all of the Distributions, and to determine the timing of and any and all conditions to the completion of the Separation and the Distributions or any part thereof or of any other transaction contemplated by this Agreement; and

(b) to amend or otherwise change, delete or supplement, from time to time, any term or element of the Separation, including any Separation Transaction, or any or all of the Distributions or any other transaction contemplated by this Agreement.

12.02. Termination. (a) This Agreement and all Ancillary Agreements may be terminated and the transactions contemplated hereby may be amended, supplemented, modified or abandoned in any respect at any time prior to the Effective Time of the first Distribution to occur, by and in the sole and absolute discretion of IAC without the approval of any Spinco or of the stockholders of IAC. In the event of such termination, no Party shall have any liability of any kind to any other Party or any other Person.

(b) After the Effective Time of the first Distribution to occur, this Agreement may not be terminated to the extent the rights and obligations provided for hereunder are between and among IAC and those Spinco’s the Distribution of which shall have previously occurred except by an agreement in writing signed by the relevant Parties; provided, that IAC in its sole discretion may abandon one or more of the Distributions the Distribution date of which shall not yet have occurred and, by notice to the other Spinco’s, shall have the right to terminate (subject to the last sentence of Section 1.04(b)) this Agreement and the Ancillary Agreements to the extent of the rights and obligations provided between the Spinco(s) the Distribution of which shall have been abandoned and the Spinco’s the Distribution of which shall have previously occurred.

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## ARTICLE XIII MISCELLANEOUS

13.01. Limitation of Liability. In no event shall any member of any Group be liable to any member of any other Group for any special, consequential, indirect, collateral, incidental or punitive damages or lost profits or failure to realize expected savings or other commercial or economic loss of any kind, however caused and on any theory of liability (including negligence) arising in any way out of this Agreement, whether or not such Person has been advised of the possibility of any such damages; provided, however, that the foregoing limitations shall not limit any Party’s indemnification obligations for Liabilities with respect to Third Party Claims as set forth in Article VI. The provisions of Article IX shall be the Parties’ sole recourse for any breach hereof or any breach of the Ancillary Agreements.

13.02. Counterparts. This Agreement and each Ancillary Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the parties thereto and delivered to the other party or parties.

13.03. Entire Agreement. This Agreement, the Ancillary Agreements, and the Schedules and Exhibits hereto and thereto and the specific agreements contemplated hereby or thereby contain the entire agreement between the Parties with respect to the subject matter hereof and supersede all previous agreements, oral or written, negotiations, discussions, writings, understandings, commitments and conversations with respect to such subject matter. No agreements or understandings exist between the Parties other than those set forth or referred to herein or therein.

13.04. Construction. In this Agreement and each of the Ancillary Agreements, unless a clear contrary intention appears:



- (a) the singular number includes the plural number and vice versa;
- (b) reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are not prohibited by this Agreement or the relevant Ancillary Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually;
- (c) reference to any gender includes each other gender;
- (d) reference to any agreement, document or instrument means such agreement, document or instrument as amended, modified, supplemented or restated, and in effect from time to time in accordance with the terms thereof subject to compliance with the requirements set forth herein or in the relevant Ancillary Agreement;
- (e) reference to any Applicable Law means such Applicable Law as amended, modified, codified, replaced or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder, and reference to any section or other provision of any Applicable Law means that provision of such Applicable Law from time to time

in effect and constituting the substantive amendment, modification, codification, replacement or reenactment of such section or other provision;

- (f) "herein," "hereby," "hereunder," "hereof," "hereto" and words of similar import shall be deemed references to this Agreement or to the relevant Ancillary Agreement as a whole and not to any particular article, section or other provision hereof or thereof;
- (g) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term;
- (h) the Table of Contents and headings are for convenience of reference only and shall not affect the construction or interpretation hereof or thereof;
- (i) with respect to the determination of any period of time, "from" means "from and including" and "to" means "to but excluding;" and
- (j) references to documents, instruments or agreements shall be deemed to refer as well to all addenda, exhibits, schedules or amendments thereto.

13.05. Signatures. Each Party acknowledges that it and the other Party (and the other members of their respective Groups) may execute certain of the Ancillary Agreements by facsimile, stamp or mechanical signature. Each Party expressly adopts and confirms each such facsimile, stamp or mechanical signature made in its respective name (or that of the applicable member of its Group) as if it were a manual signature, agrees that it will not assert that any such signature is not adequate to bind such Party to the same extent as if it were signed manually and agrees that at the reasonable request of the other Party at any time it will as promptly as reasonably practicable cause each such Ancillary Agreement to be manually executed (any such execution to be as of the date of the initial date thereof).

13.06. Assignability. Except as set forth in any Ancillary Agreement, this Agreement and each Ancillary Agreement shall be binding upon and inure to the benefit of the Parties hereto and thereto, respectively, and their respective successors and assigns; provided, however, that except as specifically provided in any Ancillary Agreement, no Party hereto or thereto may assign its respective rights or delegate its respective obligations under this Agreement or any Ancillary Agreement without the express prior written consent of the other parties hereto or thereto.

13.07. Third Party Beneficiaries. Except for the indemnification rights under this Agreement of any Corresponding Indemnified Party in its capacity as such and for the release under Section 6.01 of any Person provided therein and except as specifically provided in any Ancillary Agreement, (a) the provisions of this Agreement and each Ancillary Agreement are solely for the benefit of the parties hereto and thereto and their respective successors and permitted assigns and are not intended to confer upon any Person, except the parties hereto and thereto and their respective successors and permitted assigns, any rights or remedies hereunder and (b) there are no third party beneficiaries of this Agreement or any Ancillary Agreement; and neither this Agreement nor any Ancillary Agreement shall provide any Third Party with any remedy, claim, liability, reimbursement, claim of action or other right in excess of those existing without reference to this Agreement or any Ancillary Agreement.

13.08. Payment Terms. (a) Except as expressly provided to the contrary in this Agreement or in any Ancillary Agreement, any amount to be paid or reimbursed by one Party to the other under this Agreement shall be paid or reimbursed hereunder within thirty (30) days after presentation of an invoice or a written demand therefor and setting forth, or accompanied by, reasonable documentation or other reasonable explanation supporting such amount.

(b) Except as expressly provided to the contrary in this Agreement or in any Ancillary Agreement, any amount not paid when due pursuant to this Agreement (and any amount billed or otherwise invoiced or demanded and properly payable that is not paid within thirty (30) days of such bill, invoice or other demand) shall bear interest at a rate per annum equal to the Prime Rate plus 2% (or the maximum legal rate, whichever is lower), calculated for the actual number of days elapsed, accrued from the date on which such payment was due up to the date of the actual receipt of payment.

13.09. Governing Law. Except as set forth in Article IX, this Agreement and each Ancillary Agreement, shall be governed by and construed and interpreted in accordance with the internal laws of the State of Delaware, irrespective of the choice of laws principles of the State of Delaware, as to all matters, including matters of validity, construction, effect, enforceability, performance and remedies.

13.10. Notices. All notices or other communications under this Agreement and, unless expressly provided therein, each Ancillary Agreement, shall be in writing and shall be deemed to be duly given when delivered in person or successfully transmitted by facsimile, addressed as follows:

If to IAC, to:

IAC/InterActiveCorp  
555 West 18th Street  
New York, NY 10011  
Attention: General Counsel  
Telecopier: (212) 632-9642

with a copy to:

Wachtell, Lipton, Rosen & Katz  
51 West 52nd Street  
New York, NY 10019

Attention: Pamela S. Seymon, Esq.  
Telecopier: (212) 403-2000

If to TM Spinco:

Ticketmaster  
8800 Sunset Boulevard  
West Hollywood, California 90069  
Attention: General Counsel  
Telecopier: (310) -

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with a copy to:

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If to Interval Spinco:

Interval Leisure Group, Inc.  
6262 Sunset Drive  
Miami, Florida 33143  
Attention: General Counsel  
Telecopier: (305) -

with a copy to:

[ ]

If to HSN Spinco:

1 HSN Drive  
St. Petersburg, Florida 33729  
Attention: General Counsel  
Telecopier: (727) -

with a copy to:

[ ]

If to Tree Spinco:

11115 Rushmore Drive  
Charlotte, North Carolina 28277  
Attention: General Counsel  
Telecopier: (704) -

with a copy to:

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Any Party may, by notice to the other Parties as set forth herein, change the address or fax number to which such notices are to be given.

13.11. Severability. If any provision of this Agreement or any Ancillary Agreement or the application thereof to any Person or circumstance is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof or thereof, or the application of such provision to Persons or circumstances or in jurisdictions other than those as to which it has been held invalid or unenforceable, shall remain in full force and

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effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby or thereby, as the case may be, is not affected in any manner adverse to any party hereto or thereto. Upon such determination, the relevant Parties shall negotiate in good faith in an effort to agree upon such a suitable and equitable provision to effect the original intent of the Parties.

13.12. Publicity. Prior to the Effective Time, IAC shall be responsible for issuing any press releases or otherwise making public statements with respect to this Agreement, the Separation, the Distributions or any of the other transactions contemplated hereby and thereby, and no Spinco shall make such statements without the prior written consent of IAC. Prior to the Effective Time, the Separate-cos shall each consult with the other prior to making any filings with any Governmental Authority with respect thereto.

13.13. Survival of Covenants. Except as expressly set forth in this Agreement or any Ancillary Agreement, any covenants, representations or warranties contained in this Agreement and each Ancillary Agreement shall survive the Separation and the Distributions and shall remain in full force and effect.

13.14. Waivers of Default; Conflicts. (a) Waiver by any Party of any default by the other Party of any provision of this Agreement or any Ancillary Agreement shall not be deemed a waiver by the waiving Party of any subsequent or other default, nor shall it prejudice the rights of the other Party. No failure or delay by any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

(b) Each Party acknowledges that each of the Parties and each member of their respective Group are all currently represented by members of IAC's legal department and IAC's outside counsel. IAC (on behalf of itself and every member of its Group), on the one hand, and each Spinco (on behalf of itself and every member of its Group), on the other hand, waives any conflict with respect to such common representation that may arise before, at or after the Effective Time.

13.15. Amendments. After the Effective Time, no provisions of this Agreement or any Ancillary Agreement shall be deemed waived, amended, supplemented or modified by any Party, unless such waiver, amendment, supplement or modification is in writing and signed by the authorized representative of the Party against whom it is sought to enforce such waiver, amendment, supplement or modification.

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives.

IAC/INTERACTIVECORP

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

HSN, INC.

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

INTERVAL LEISURE GROUP, INC.

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

TICKETMASTER

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

TREE.COM, INC.

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

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**AMENDED AND RESTATED CERTIFICATE OF INCORPORATION**

**OF**

**HSN, INC.**

HSN, Inc. (the "Corporation"), a corporation organized and existing under the laws of the State of Delaware, hereby certifies that:

1. The original Certificate of Incorporation was filed with the Secretary of State of the State of Delaware on May 9, 2008.
2. The name under which the Corporation was initially incorporated is HSN, Inc.
3. This Amended and Restated Certificate of Incorporation restates and amends in its entirety the Certificate of Incorporation of the Corporation.
4. This Amended and Restated Certificate of Incorporation was duly adopted by the Board of Directors of the Corporation and by the stockholders of the Corporation in accordance with Sections 242 and 245 of the General Corporation Law of the State of Delaware (the "DGCL").
5. The text of the Certificate of Incorporation of the Corporation is hereby amended and restated to read in full as follows:

FIRST: The name of the corporation is HSN, Inc. (the "Corporation").

SECOND: The address of the registered office of the Corporation in the State of Delaware is c/o National Registered Agents, Inc., 160 Greentree Drive, Suite 101, City of Dover, County of Kent, State of Delaware 19904. The name of the registered agent of the Corporation at that address is National Registered Agents, Inc..

THIRD: The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of the State of Delaware (the "DGCL").

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FOURTH: A. The total number of shares of all classes of stock which the Corporation shall have authority to issue is three hundred and twenty-five million (325,000,000), consisting of three hundred million (300,000,000) shares of Common Stock, par value one cent (\$.01) per share (the "Common Stock") and twenty-five million (25,000,000) shares of Preferred Stock, par value one cent (\$.01) per share (the "Preferred Stock").

B. The board of directors (the "Board") is authorized, subject to any limitations prescribed by law, to provide for the issuance of shares of Preferred Stock in series, and by filing a certificate pursuant to the applicable law of the State of Delaware (such certificate being hereinafter referred to as a "Preferred Stock Designation"), to establish from time to time the number of shares to be included in each such series, and to fix the designation, powers, preferences, and rights of the shares of each such series and any qualifications, limitations or restrictions thereof. The number of authorized shares of Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the voting power of all of the then-outstanding shares of capital stock of the Corporation entitled to vote thereon, without a vote of the holders of the Preferred Stock, or of any series thereof, unless a vote of any such holders is required pursuant to the terms of any Preferred Stock Designation.

C. Each outstanding share of Common Stock shall entitle the holder thereof to one vote on each matter properly submitted to the stockholders of the Corporation for their vote; provided, however, that, except as otherwise required by law, holders of Common Stock shall not be entitled to vote on any amendment to this Certificate of Incorporation (including any Preferred Stock Designation relating to any series of Preferred Stock) that relates solely to the terms of one or more outstanding series of Preferred Stock if the

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holders of such affected series are entitled, either separately or together as a class with the holders of one or more other such series, to vote thereon pursuant to this Certificate of Incorporation (including any Preferred Stock Designation relating to any series of Preferred Stock).

FIFTH: The Corporation elects not to be governed by Section 203 of the DGCL.

SIXTH: The following provisions are inserted for the management of the business and the conduct of the affairs of the Corporation, and for further definition, limitation and regulation of the powers of the Corporation and of its directors and stockholders:

A. The business and affairs of the Corporation shall be managed by or under the direction of the Board. In addition to the powers and authority expressly conferred upon them by statute or by this Certificate of Incorporation or the by-laws of the Corporation, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation.

B. The directors of the Corporation need not be elected by written ballot unless the by-laws so provide.

C. Subject to the rights of the holders of any series of Preferred Stock, any action required or permitted to be taken by the stockholders of the Corporation must be effected at a duly called annual or special meeting of stockholders of the Corporation and may not be effected by any consent in writing by such stockholders.

D. Except as otherwise required by law and subject to the rights of the holders of any series of Preferred Stock, special meetings of the stockholders of the Corporation

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may be called only by or at the direction of the Board or by a person specifically designated with such authority by the Board. Stockholders are not entitled to call special meetings.

SEVENTH: A. Subject to the rights of the holders of any series of Preferred Stock to elect additional directors under specified circumstances, the number of directors shall be fixed from time to time exclusively by the Board pursuant to a resolution adopted by a majority of the Board.

B. Subject to the rights of the holders of any series of Preferred Stock then outstanding, newly created directorships resulting from any increase in the authorized number of directors or any vacancies in the Board resulting from death, resignation, retirement, disqualification, removal from office or other cause shall, unless otherwise required by law or by resolution of the Board, be filled only by a majority vote of the directors then in office, though less than a quorum (and not by stockholders). Any director so chosen shall hold office for a term expiring at the next annual meeting of stockholders and until such director's successor shall have been duly elected and qualified, or until such director's earlier death, resignation, retirement, disqualification, removal from office or other reason.

C. Advance notice of stockholder nominations for the election of directors and of business to be brought by stockholders before any meeting of the stockholders of the Corporation shall be given in the manner provided in the by-laws of the Corporation.

EIGHTH: The Board is expressly empowered to adopt, amend or repeal by-laws of the Corporation.

NINTH: A director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director,

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except for liability (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the DGCL, or (iv) for any transaction from which the director derived an improper personal benefit. If the DGCL is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended.

Any repeal or modification of the foregoing paragraph shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification.

TENTH: The Corporation reserves the right to amend or repeal any provision contained in this Certificate of Incorporation in the manner prescribed by the laws of the State of Delaware and all rights conferred upon stockholders are granted subject to this reservation.

IN WITNESS WHEREOF, the Corporation has caused this Amended and Restated Certificate of Incorporation to be executed by its duly authorized officer this [ ] day of August, 2008.

HSN, INC.

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By: James P. Warner  
Title: Corporate Secretary

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## AMENDED AND RESTATED BY-LAWS

OF

HSN, INC.

ARTICLE I - OFFICESSection 1. Registered Office.

The registered office of HSN, Inc. (the "Corporation") shall be located in the city of Dover, State of Delaware.

Section 2. Other Offices.

The Corporation may have offices at such other places, both within and without the State of Delaware, as the board of directors (the "Board") may from time to time determine or the business of the Corporation may require.

ARTICLE II - STOCKHOLDERSSection 1. Annual Meeting.

(1) An annual meeting of the stockholders, for the election of directors to succeed those whose terms expire and for the transaction of such other business as may properly come before the meeting, shall be held at such place, on such date, and at such time as the Board shall each year fix.

(2) Nominations of persons for election to the Board and the proposal of business to be transacted by the stockholders may be made at an annual meeting of stockholders (a) pursuant to the Corporation's proxy materials with respect to such meeting, (b) by or at the direction of the Board, or (c) by any stockholder of record of the Corporation (the "Record Stockholder") at the time of the giving of the notice required in the following paragraph, who is entitled to vote at the meeting and who has complied with the notice procedures set forth in this

section. For the avoidance of doubt, clause (c) above shall be the exclusive means for a stockholder to make nominations and propose business (other than business included in the Corporation's proxy materials pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended (such act, and the rules and regulations promulgated thereunder, the "Exchange Act")) before an annual meeting of stockholders.

(3) For nominations or business to be properly brought before an annual meeting by a Record Stockholder pursuant to clause (c) of the foregoing paragraph, (a) the Record Stockholder must have given timely notice thereof in writing to the Secretary of the Corporation, (b) any such business must be a proper matter for stockholder action under Delaware law, and (c) the Record Stockholder and the beneficial owner, if any, on whose behalf any such proposal or nomination is made, must have acted in accordance with the representations set forth in the Solicitation Statement required by these Bylaws. To be timely, a Record Stockholder's notice shall be received by the Secretary at the principal executive offices of the Corporation not less than 45 or more than 75 days prior to the first anniversary (the "Anniversary") of the date on which the Corporation first mailed its proxy materials for the preceding year's annual meeting of stockholders; provided, however, that if the date of the annual meeting is advanced more than 30 days prior to or delayed by more than 30 days after the anniversary of the preceding year's annual meeting, or if the Corporation did not hold an annual meeting during the preceding year, notice by the Record Stockholder to be timely must be so delivered not later than the close of business on the later of (i) the 90th day prior to such annual meeting or (ii) the 10th day following the day on which public announcement of the date of such meeting is first made. Such Record Stockholder's notice shall set forth (a) if such notice pertains to the nomination of directors, as to each person whom the Record Stockholder proposes to nominate for election or reelection as a director all information relating to

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such person as would be required to be disclosed in solicitations of proxies for the election of such nominees as directors pursuant to Regulation 14A under the Exchange Act, and such person's written consent to serve as a director if elected; (b) as to any business that the Record Stockholder proposes to bring before the meeting, a brief description of such business, the reasons for conducting such business at the meeting and any material interest in such business of such Record Stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and (c) as to the Record Stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (i) the name and address of such Record Stockholder, as they appear on the Corporation's books, and of such beneficial owner, (ii) (A) the class, series, and number of shares of the Corporation that are owned beneficially and of record by such Record Stockholder and such beneficial owner, (B) any option, warrant, convertible security, stock appreciation right, or similar right with an exercise or conversion privilege or a settlement payment or mechanism at a price related to any class or series of shares of the Corporation or with a value derived in whole or in part from the value of any class or series of shares of the Corporation, whether or not such instrument or right shall be subject to settlement in the underlying class or series of capital stock of the Corporation or otherwise (a "Derivative Instrument") directly or indirectly owned beneficially by such stockholder and any other direct or indirect opportunity to profit or share in any profit derived from any increase or decrease in the value of shares of the Corporation, (C) any proxy, contract, arrangement, understanding, or relationship pursuant to which such stockholder has a right to vote any shares of any security of the Company, (D) any short interest in any security of the Company (for purposes of this By-law a person shall be deemed to have a short interest in a security if such person directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has the opportunity to profit or share in any

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profit derived from any decrease in the value of the subject security), (E) any rights to dividends on the shares of the Corporation owned beneficially by such stockholder that are separated or separable from the underlying shares of the Corporation, (F) any proportionate interest in shares of the Corporation or Derivative Instruments held, directly or indirectly, by a general or limited partnership in which such stockholder is a general partner or, directly or indirectly, beneficially owns an interest in a general partner and (G) any performance-related fees (other than an asset-based fee) that such stockholder is entitled to based on any increase or decrease in the value of shares of the Corporation or Derivative Instruments, if any, as of the date of such notice, including without limitation any such interests held by members of such stockholder's immediate family sharing the same household (which information shall be supplemented by such stockholder and beneficial owner, if any, not later than 10 days after the record date for the meeting to disclose such ownership as of the record date) and (iii) a statement whether or not such Record Stockholder or beneficial owner will deliver a proxy statement and form of proxy to holders of, in the case of a proposal, at least the percentage of voting power of all of the shares of capital stock of the Corporation required under applicable law to carry the proposal or, in the case of a nomination or nominations, at least the percentage of voting power of all of the shares of capital stock of the Corporation reasonably believed by such Record Stockholder or beneficial holder to be sufficient to elect the nominee or nominees proposed to be nominated by such Record Stockholder (such

statement, a "Solicitation Statement").

(4) Notwithstanding anything in the second sentence of the third paragraph of this Section 1 to the contrary, in the event that the number of directors to be elected to the Board is increased and there is no public announcement naming all of the nominees for director or specifying the size of the increased Board made by the Corporation at least 55 days prior to the Anniversary, a

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Record Stockholder's notice required by this Bylaw shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be received by the Secretary at the principal executive offices of the Corporation not later than the close of business on the 10th day following the day on which such public announcement is first made by the Corporation.

(5) A person shall not be eligible for election or re-election as a director at an annual meeting unless (i) the person is nominated by a Record Stockholder in accordance with Section 1(2)(c) or (ii) the person is nominated by or at the direction of the Board. Only such business shall be conducted at an annual meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this section. The chairman of the meeting shall have the power and the duty to determine whether a nomination or any business proposed to be brought before the meeting has been made in accordance with the procedures set forth in these Bylaws and, if any proposed nomination or business is not in compliance with these Bylaws, to declare that such defectively proposed business or nomination shall not be presented for stockholder action at the meeting and shall be disregarded.

(6) For purposes of these Bylaws, "public announcement" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or a comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act.

(7) Notwithstanding the foregoing provisions of this Section 1, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to matters set forth in this Section 1. Nothing in this Section 1 shall be deemed to affect any rights of stockholders to request inclusion of proposals in the

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Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

Section 2. Special Meetings.

(1) Special meetings of the stockholders, other than those required by statute, may be called at any time only by or at the direction of the Board or by a person specifically designated with such authority by the Board. The Board may postpone or reschedule any previously scheduled special meeting. Stockholders are not entitled to call special meetings.

(2) Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting. Nominations of persons for election to the Board may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of meeting (a) by or at the direction of the Board or (b) by any stockholder of record of the Corporation who is a stockholder of record at the time of giving of notice provided for in this paragraph, who shall be entitled to vote at the meeting and who complies with the notice procedures set forth in Section 1 of this Article II. Nominations by stockholders of persons for election to the Board may be made at such a special meeting of stockholders only if the stockholder's notice required by the third paragraph of Section 1 of this Article II shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the later of the 90th day prior to such special meeting or the 10th day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board to be elected at such meeting. A person shall not be eligible for election or reelection as a director at a special meeting unless the person is nominated (i) by or at the direction of the Board or (ii) by a Record Stockholder in accordance with the notice procedures set forth in Section 1 of this Article II.

(3) Notwithstanding the foregoing provisions of this Section 2, a stockholder

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shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to matters set forth in this Section 2. Nothing in this Section 2 shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

Section 3. Notice of Meetings.

Notice of the place, if any, date, and time of all meetings of the stockholders, and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting, shall be given, not less than ten (10) nor more than sixty (60) days before the date on which the meeting is to be held, to each stockholder entitled to vote at such meeting, except as otherwise provided herein or required by law (meaning, here and hereinafter, as required from time to time by the Delaware General Corporation Law (the "DGCL"), a national securities exchange, or the Certificate of Incorporation of the Corporation). Meetings may be held without notice if all stockholders entitled to vote are present (unless any such stockholders are present for the purpose of objecting to the meeting as lawfully called or convened), or if notice is waived by those not present. Any previously scheduled meeting of the stockholders may be postponed, and (unless the Certificate of Incorporation otherwise provides) any special meeting of the stockholders may be canceled, by resolution of the Board upon public notice given prior to the time previously scheduled for such meeting of stockholders.

When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time and place, if any, thereof, and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment

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is taken; provided, however, that if the date of any adjourned meeting is more than thirty (30) days after the date for which the meeting was originally noticed, or if a new record date is fixed for the adjourned meeting, notice of the place, if any, date, and time of the adjourned meeting and the means of remote communications, if any, by which

stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting, shall be given in conformity herewith. At any adjourned meeting, any business may be transacted which might have been transacted at the original meeting.

Section 4.                    Quorum.

At any meeting of the stockholders, the holders of a majority of the voting power of all of the shares of the stock entitled to vote at the meeting, present in person or by proxy, shall constitute a quorum for all purposes, unless or except to the extent that the presence of a larger number may be required by law. Where a separate vote by a class or classes or series is required, a majority of the voting power of the shares of such class or classes or series present in person or represented by proxy shall constitute a quorum entitled to take action with respect to that vote on that matter.

If a quorum shall fail to attend any meeting, (a) the chairman of the meeting or (b) the holders of a majority of the voting power of all of the shares of the stock present in person or by proxy may adjourn the meeting to another place, if any, date, or time.

Section 5.                    Organization.

Such person as the Board may have designated or, in the absence of such a person, the Chairman of the Board or, in his or her absence, such person as may be chosen by the holders of a majority of the voting power of the shares entitled to vote who are present, in person or by proxy, shall call to order any meeting of the stockholders and act as chairman of the meeting. In the

absence of the Secretary of the Corporation, the secretary of the meeting shall be such person as the chairman of the meeting appoints.

Section 6.                    Conduct of Business.

The chairman of any meeting of stockholders shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of discussion as seem to him or her in order. The chairman shall have the power to adjourn the meeting to another place, if any, date and time. The date and time of the opening and closing of the polls for each matter upon which the stockholders will vote at the meeting shall be announced at the meeting.

Section 7.                    Proxies and Voting.

At any meeting of the stockholders, every stockholder entitled to vote may vote in person or by proxy authorized by an instrument in writing or by a transmission permitted by law filed in accordance with the procedure established for the meeting. Any copy, facsimile telecommunication or other reliable reproduction of the writing or transmission created pursuant to this paragraph may be substituted or used in lieu of the original writing or transmission for any and all purposes for which the original writing or transmission could be used, provided that such copy, facsimile telecommunication or other reproduction shall be a complete reproduction of the entire original writing or transmission.

The Corporation may, and to the extent required by law, shall, in advance of any meeting of stockholders, appoint one or more inspectors to act at the meeting and make a written report thereof. The Corporation may designate one or more alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of stockholders, the person presiding at the meeting may, and to the extent required by law, shall, appoint one or more

inspectors to act at the meeting. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. Every vote taken by ballots shall be counted by a duly appointed inspector or inspectors.

All elections shall be determined by a plurality of the votes cast, and except as otherwise required by law, all other matters shall be determined by a majority of the votes cast affirmatively or negatively.

Subject to the rights of the holders of any series of Preferred Stock, any action required or permitted to be taken by the stockholders of the Corporation must be effected at a duly called annual or special meeting of stockholders of the Corporation and may not be effected by any consent in writing by such stockholders.

Section 8.                    Stock List.

A complete list of stockholders entitled to vote at any meeting of stockholders, arranged in alphabetical order for each class of stock and showing the address of each such stockholder and the number of shares registered in his or her name, shall be open to the examination of any such stockholder for a period of at least 10 days prior to the meeting in the manner provided by law.

The stock list shall also be open to the examination of any stockholder during the whole time of the meeting as provided by law. This list shall presumptively determine the identity of the stockholders entitled to vote at the meeting and the number of shares held by each of them.

ARTICLE III - BOARD OF DIRECTORS

Section 1.                    Number, Election and Term of Directors.

Subject to the rights of the holders of any series of preferred stock to elect directors

under specified circumstances, the number of directors shall be fixed from time to time exclusively by the Board pursuant to a resolution adopted by a majority of the Board.

Section 2.                    Newly Created Directorships and Vacancies.

Subject to the rights of the holders of any series of preferred stock then outstanding, newly created directorships resulting from any increase in the authorized number of directors or any vacancies in the Board resulting from death, resignation, retirement, disqualification, removal from office or other cause shall, unless otherwise required by law or by resolution of the Board, be filled only by a majority vote of the directors then in office, though less than a quorum (and not by stockholders). No decrease in the number of authorized directors shall shorten the term of any incumbent director.



Section 3. Regular Meetings.

Regular meetings of the Board shall be held at such place or places, on such date or dates, and at such time or times as shall have been established by the Board and publicized among all directors.

Section 4. Special Meetings.

Special meetings of the Board may be called by the Chairman of the Board, the CEO or by a majority of the Board and shall be held at such place, on such date, and at such time as they or he or she shall fix. Notice of the place, date, and time of each such special meeting shall be given to each director by whom it is not waived by mailing written notice not less than five (5) days before the meeting or by telephone or by telegraphing or telexing or by facsimile or electronic transmission of the same not less than twenty-four (24) hours before the meeting. Unless otherwise indicated in the notice thereof, any and all business may be transacted at a special meeting. A meeting may be held at any time without notice if all the directors are present or if those not present

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waive notice of the meeting in accordance with Section 2 of Article VII of these By-Laws.

Section 5. Quorum.

At any meeting of the Board, a majority of the total number of directors shall constitute a quorum for all purposes. If a quorum shall fail to attend any meeting, a majority of those present may adjourn the meeting to another place, date, or time, without further notice or waiver thereof.

Section 6. Participation in Meetings By Conference Telephone

Members of the Board, or of any committee thereof, may participate in a meeting of such Board or committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other and such participation shall constitute presence in person at such meeting.

Section 7. Conduct of Business.

At any meeting of the Board, business shall be transacted in such order and manner as the Board may from time to time determine, and all matters shall be determined by the vote of a majority of the directors present, except as otherwise provided herein or required by law. Action may be taken by the Board without a meeting if all members thereof consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Section 8. Compensation of Directors.

Unless otherwise restricted by the certificate of incorporation, the Board shall have the authority to fix the compensation of the directors. The directors may be paid their expenses, if

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any, of attendance at each meeting of the Board and may be paid a fixed sum for attendance at each meeting of the Board or paid a stated salary or paid other compensation as a director. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor. Members of special or standing committees may be allowed compensation for attending committee meetings.

ARTICLE IV - COMMITTEES

Section 1. Committees of the Board.

The Board may from time to time designate committees of the Board, with such lawfully delegable powers and duties as it thereby confers, to serve at the pleasure of the Board and shall, for those committees and any others provided for herein, elect a director or directors to serve as the member or members, designating, if it desires, other directors as alternate members who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of any member of any committee and any alternate member in his or her place, the member or members of the committee present at the meeting and not disqualified from voting, whether or not he or she or they constitute a quorum, may by unanimous vote appoint another member of the Board to act at the meeting in the place of the absent or disqualified member.

Section 2. Conduct of Business.

Each committee may determine the procedural rules for meeting and conducting its business and shall act in accordance therewith, except as otherwise provided herein or required by law. Adequate provision shall be made for notice to members of all meetings; one-third (1/3) of the members, but never less than two members, shall constitute a quorum, unless the committee shall consist of one (1) member, in which event one (1) member shall constitute a quorum; and all matters shall be determined by a majority vote of the members present. Action may be taken by any

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committee without a meeting if all members thereof consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of the proceedings of such committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

ARTICLE V – CHAIRMAN OF THE BOARD; OFFICERS

Section 1. Generally.

The Corporation shall have a Chairman of the Board, a Chief Executive Officer (the "CEO"), a Secretary, a Treasurer and such other officers as may from time to time be appointed by the Board, all of whom shall perform such duties as from time to time may be prescribed by the Board. Any two (2) or more offices may be held

by the same person. Officers shall be elected by the Board, which shall consider that subject at its first meeting after every annual meeting of stockholders. Each officer shall hold office until his or her successor is elected and qualified or until his or her earlier resignation or removal. Any number of offices may be held by the same person. The salaries of officers elected by the Board shall be fixed from time to time by the Board or by such officers as may be designated by resolution of the Board.

Section 2.                    Chairman of the Board of Directors.

Subject to the provisions of these By-laws and to the direction of the Board, the Chairman of the Board shall preside at meetings of the Board, shall have the duties as prescribed by these By-laws and such other duties as may be delegated to him or her by the Board.

Section 3.                    The Chief Executive Officer.

Subject to the provisions of these By-laws and to the direction of the Board, the CEO shall have the responsibility for the general management and control of the business and

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affairs of the Corporation and shall perform all duties and have all powers which are commonly incident to the office of chief executive or which are delegated to him or her by the Board. He or she shall have power to sign all stock certificates, contracts and other instruments of the Corporation which are authorized and shall have general supervision and direction of all of the other officers, employees and agents of the Corporation.

Section 4.                    President.

The Board or the CEO may elect a President to have such duties and responsibilities as from time to time may be assigned to him by the CEO or the Board. He or she shall have general responsibility for the management and control of the operations of the Corporation and shall perform all duties and have all powers which are commonly incident to the office of chief operating officer or which are delegated to him or her by the Board or the CEO. Subject to the direction of the Board and the Chairman of the Board, the President shall have power to sign all stock certificates, contracts and other instruments of the Corporation which are authorized, and to all acts which are authorized by the CEO or the Board, and shall, in general, have such other duties and responsibilities as are assigned consistent with the authority of President of a corporation.

Section 5.                    Chief Financial Officer.

The Chief Financial Officer (if any) shall act in an executive financial capacity. He shall assist the CEO and the President, if any, in the general supervision of the Corporation's financial policies and affairs. Subject to the direction of the Board and the Chairman of the Board, the Chief Financial Officer shall have the power to sign all stock certificates, contracts and other instruments of the Corporation which are authorized and shall, in general, have such other duties and responsibilities as are assigned consistently with the authority of a Chief Financial Officer of a corporation.

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Section 6.                    Vice Presidents.

The Board or the CEO may from time to time name one or more Vice Presidents that may include the designation of Executive Vice Presidents or Senior Vice Presidents all of whom shall perform such duties as from time to time may be assigned to him by the CEO or the Board.

Section 7.                    Treasurer.

The Treasurer shall have the responsibility for maintaining the financial records of the Corporation. He or she shall make such disbursements of the funds of the Corporation as are authorized and shall render from time to time an account of all such transactions and of the financial condition of the Corporation. The Treasurer shall also perform such other duties as the Board may from time to time prescribe.

Section 8.                    Secretary.

The Secretary shall issue all authorized notices for, and shall keep minutes of, all meetings of the stockholders and the Board. He or she shall have charge of the corporate books and shall perform such other duties as the Board may from time to time prescribe.

Section 9.                    Delegation of Authority.

The Board may from time to time delegate the powers or duties of any officer to any other officers or agents, notwithstanding any provision hereof.

Section 10.                    Removal.

Any officer of the Corporation may be removed at any time, with or without cause, by the Board.

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ARTICLE VI - STOCK

Section 1.                    Certificates of Stock.

The stock of the Corporation shall be represented by certificates, provided that the Board may provide by resolution for any or all of the stock to be uncertificated shares. Each holder of stock represented by certificates shall be entitled to a certificate signed by, or in the name of the Corporation by, the Chairman or President, if any (or any Vice President), and by the Secretary or an Assistant Secretary, or the Treasurer or an Assistant Treasurer, certifying the number of shares owned by him or her. Any or all of the signatures on the certificate may be by facsimile.

Section 2.                    Record Date.

In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders, or to receive payment of any dividend or other distribution or allotment of any rights or to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other

lawful action, the Board may, except as otherwise required by law, fix a record date, which record date shall not precede the date on which the resolution fixing the record date is adopted and which record date shall not be more than sixty (60) nor less than ten (10) days before the date of any meeting of stockholders, nor more than sixty (60) days prior to the time for such other action as hereinbefore described; provided, however, that if no record date is fixed by the Board, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held, and, for determining stockholders entitled to receive payment of any dividend or other distribution or allotment of rights or to exercise any rights of change, conversion or exchange of stock or for any other purpose, the record date shall be at the close of business on the day on which the Board adopts a resolution relating thereto.

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A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board may fix a new record date for the adjourned meeting.

Section 3.                    Lost, Stolen or Destroyed Certificates.

In the event of the loss, theft or destruction of any certificate of stock, another may be issued in its place pursuant to such regulations as the Board may establish concerning proof of such loss, theft or destruction and concerning the giving of a satisfactory bond or bonds of indemnity. When authorizing such issue of new certificate(s), the Board may, in its discretion and as a condition precedent to the issuance thereof, require the owner of the lost or destroyed certificate(s), or such owner's legal representative, to advertise the same in such manner as it shall require and/or to give the Corporation a bond in such sum as it may direct as indemnity against any claim that may be made against the Corporation with respect to the certificate(s) alleged to have been lost or destroyed.

Section 4.                    Regulations.

The issue, transfer, conversion and registration of certificates of stock shall be governed by such other regulations as the Board may establish.

ARTICLE VII - NOTICES

Section 1.                    Notices.

If mailed, notice to stockholders shall be deemed given when deposited in the mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the Corporation. Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders may be given by electronic transmission in the manner provided in Section 232 of the DGCL.

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Section 2.                    Waivers.

A written waiver of any notice, signed by a stockholder or director, or waiver by electronic transmission by such person, whether given before or after the time of the event for which notice is to be given, shall be deemed equivalent to the notice required to be given to such person. Neither the business nor the purpose of any meeting need be specified in such a waiver. Attendance at any meeting shall constitute waiver of notice except attendance for the sole purpose of objecting to the transaction of business because the meeting is not lawfully called or convened.

ARTICLE VIII - MISCELLANEOUS

Section 1.                    Facsimile Signatures.

In addition to the provisions for use of facsimile signatures elsewhere specifically authorized in these By-laws, facsimile signatures of any officer or officers of the Corporation may be used whenever and as authorized by the Board or a committee thereof. In case any officer or officers who have signed, or whose facsimile signature or signatures have been used on any such certificate or certificates shall cease to be such officer or officers of the Corporation, whether because of death, resignation or otherwise, before such certificate or certificates have been delivered by the Corporation, such certificate or certificates may nevertheless be adopted by the Corporation and be issued and delivered as though the person or persons who signed such certificate or certificates or whose facsimile signature or signatures have been used thereon had not ceased to be such officer or officers of the Corporation.

Section 2.                    Corporate Seal.

The corporate seal shall have inscribed thereon the name of the Corporation, the year of its organization, and the words "Corporate Seal, Delaware". The seal may be used by causing it or a facsimile thereof to be impressed or affixed or otherwise reproduced.

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Section 3.                    Reliance upon Books, Reports and Records

Each director, each member of any committee designated by the Board, and each officer of the Corporation shall, in the performance of his or her duties, be fully protected in relying in good faith upon the books of account or other records of the Corporation and upon such information, opinions, reports or statements presented to the Corporation by any of its officers or employees, or committees of the Board so designated, or by any other person as to matters which such director or committee member reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Corporation.

Section 4.                    Fiscal Year.

The fiscal year of the Corporation shall be as fixed by the Board.

Section 5.                    Time Periods.

In applying any provision of these By-laws which requires that an act be done or not be done a specified number of days prior to an event or that an act be done during a period of a specified number of days prior to an event, calendar days shall be used, the day of the doing of the act shall be excluded, and the day of the event shall be included.

ARTICLE IX - INDEMNIFICATION OF DIRECTORS AND OFFICERS

Section 1. Indemnification.

(A) Each person who was or is made a party or is threatened to be made a party to or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or a person of whom he is the legal representative is or was, at any time during which this By-Law is in effect (whether or not such person continues to serve in such capacity at the time any indemnification or payment of

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expenses pursuant hereto is sought or at the time any proceeding relating thereto exists or is brought), a director or officer of the Corporation, or is or was at any such time serving at the request of the Corporation as a director, officer or trustee of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans maintained or sponsored by the Corporation (each such person, an "indemnitee"), whether the basis of such proceeding is alleged action in an official capacity as a director, officer or trustee or in any other capacity while serving as a director, officer or trustee, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the DGCL as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than said law permitted the Corporation to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such indemnitee in connection therewith and such indemnification shall continue as to a person who has ceased to be a director, officer or trustee and shall inure to the benefit of his heirs, executors and administrators; provided, however, that except as provided in paragraph (C) of this By-Law, the Corporation shall indemnify any such indemnitee seeking indemnification in connection with a proceeding (or part thereof) initiated by such indemnitee only if such proceeding (or part thereof) was authorized by the Board. The right to indemnification conferred in this By-Law shall include the right to be paid by the Corporation the expenses (including attorney's fees) incurred in defending any such proceeding in advance of its final disposition, such advances to be paid by the Corporation within twenty (20) days after the receipt by the Corporation of a statement or statements from the claimant requesting such advance or advances from time to time; provided, however, that if the DGCL requires, the payment of such

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expenses incurred by an indemnitee in his capacity as a director or officer (and not in any other capacity in which service was or is rendered by such indemnitee while a director or officer, including, without limitation, service to an employee benefit plan) shall be made only upon delivery to the Corporation of an undertaking (hereinafter, the "undertaking") by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right of appeal (a "final disposition") that such indemnitee is not entitled to be indemnified for such expenses under this By-Law or otherwise. The rights conferred upon indemnitees in this By-Law shall be contract rights that vest at the time of such person's service to or at the request of the Corporation and such rights shall continue as to an indemnitee who has ceased to be a director, officer or trustee and shall inure to the benefit of the indemnitee's heirs, executors and administrators.

(B) To obtain indemnification under this By-Law, a claimant shall submit to the Corporation a written request, including therein or therewith such documentation and information as is reasonably available to the claimant and is reasonably necessary to determine whether and to what extent the claimant is entitled to indemnification. Upon written request by a claimant for indemnification pursuant to the first sentence of this paragraph (B), a determination, if required by applicable law, with respect to the claimant's entitlement thereto shall be made as follows: (i) by the Board by a majority vote of the Disinterested Directors (as hereinafter defined), even though less than a quorum, or (ii) by a committee of Disinterested Directors designated by majority vote of the Disinterested Directors, even though less than a quorum, or (iii) if there are no Disinterested Directors or the Disinterested Directors so direct, by Independent Counsel in a written opinion to the Board, a copy of which shall be delivered to the claimant, or (iv) if a quorum of Disinterested

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Directors so directs, by the stockholders of the Corporation. If it is so determined that the claimant is entitled to indemnification, payment to the claimant shall be made within 10 days after such determination.

(C) If a claim under paragraph (A) of this By-Law is not paid in full by the Corporation within thirty (30) days after a written claim pursuant to paragraph (B) of this By-Law has been received by the Corporation (except in the case of a claim for advancement of expenses, for which the applicable period is twenty (20) days), the claimant may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the Corporation) that the claimant has not met the standard of conduct which makes it permissible under the DGCL for the Corporation to indemnify the claimant for the amount claimed, but the burden of proving such defense shall be on the Corporation. Neither the failure of the Corporation (including the Disinterested Directors, Independent Counsel or stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Corporation (including the Disinterested Directors, Independent Counsel or stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

(D) If a determination shall have been made pursuant to paragraph (B) of this By-Law that the claimant is entitled to indemnification, the Corporation shall be bound by such

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determination in any judicial proceeding commenced pursuant to paragraph (C) of this By-Law.

(E) The Corporation shall be precluded from asserting in any judicial proceeding commenced pursuant to paragraph (C) of this By-Law that the procedures and presumptions of this By-Law are not valid, binding and enforceable and shall stipulate in such proceeding that the Corporation is bound by all the provisions of this By-Law.

(F) The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this By-Law (i) shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, By-Laws, agreement, vote of stockholders or Disinterested Directors or otherwise and (ii) cannot be terminated by the Corporation, the Board or the stockholders of the Corporation with respect to a person's service prior to the date of such termination. Any amendment, modification, alteration or repeal of this By-Law that in any way diminishes, limits, restricts, adversely affects or eliminates any right of an indemnitee or his successors to indemnification, advancement of expenses or otherwise shall be prospective only and shall not in any way diminish, limit, restrict, adversely affect or eliminate any such right with respect to any actual or alleged state of facts, occurrence, action or omission then or previously existing, or any action, suit or proceeding previously or thereafter brought or threatened based in whole or in part upon any such actual or alleged state of facts, occurrence, action or omission.

(G) The Corporation may grant rights to indemnification, and rights to be paid by the Corporation the expenses incurred in defending any proceeding in advance of its final disposition, to any current or former employee or agent of the Corporation to the fullest extent of the

provisions of this By-Law with respect to the indemnification and advancement of expenses of current or former directors and officers of the Corporation.

(H) If any provision or provisions of this By-Law shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (1) the validity, legality and enforceability of the remaining provisions of this By-Law (including, without limitation, each portion of any paragraph of this By-Law containing any such provision held to be invalid, illegal or unenforceable, that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby; and (2) to the fullest extent possible, the provisions of this By-Law (including, without limitation, each such portion of any paragraph of this By-Law containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

(I) For purposes of this By-Law:

(i) "Disinterested Director" means a director of the Corporation who is not and was not a party to the matter in respect of which indemnification is sought by the claimant.

(ii) "Independent Counsel" means a law firm, a member of a law firm, or an independent practitioner, selected by the Disinterested Directors (if such Disinterested Directors so exist), that is experienced in matters of corporation law and shall include any person who, under the applicable standards of professional conduct then prevailing, would not have a conflict of interest in representing either the Corporation or the claimant in an action to determine the claimant's rights

under this By-Law.

(J) Any notice, request or other communication required or permitted to be given to the Corporation under this By-Law shall be in writing and either delivered in person or sent by telecopy, telex, telegram, overnight mail or courier service, or certified or registered mail, postage prepaid, return receipt requested, to the Secretary of the Corporation and shall be effective only upon receipt by the Secretary.

Section 2.            Insurance.

The Corporation may maintain insurance, at its expense, to protect itself and any current or former director, officer, employee or agent of the Corporation and any current or former director, officer, trustee, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including any person who serves or served in any such capacity with respect to any employee benefit plan maintained or sponsored by the Corporation, against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the DGCL.

ARTICLE X - AMENDMENTS

In furtherance and not in limitation of the powers conferred by law, the Board is expressly authorized to adopt, amend and repeal these By-Laws subject to the power of the holders of capital stock of the Corporation to adopt, amend or repeal the By-Laws.

August 1, 2008

HSN, Inc.  
1 HSN Drive  
St. Petersburg, FL 33729

Re: Registration Statement on Form S-1 of HSN, Inc.

Ladies and Gentlemen:

I am the Executive Vice President, General Counsel and Secretary of IAC/InterActiveCorp, a Delaware corporation ("IAC"). This opinion is being delivered in connection with the preparation and filing of a Registration Statement on Form S-1 (the "Registration Statement") relating to the registration under the Securities Act of 1933, as amended (the "Securities Act"), which relates to 73,281,067 shares of common stock ("Common Stock"), par value \$.01 per share, of HSN, Inc. (the "Company"), which will be issued (i) in connection with spin-off transaction, (ii) in respect of certain equity-based awards previously issued pursuant to IAC's equity incentive plans that will be converted, in whole or in part, in connection with the spin-off into equity-based awards under the HSN, Inc. 2008 Stock and Annual Incentive Plan (the "Stock and Annual Incentive Plan"), (iii) in respect of equity-based awards that may be granted from time to time following the spin-off pursuant to the Stock and Annual Incentive Plan and (iv) pursuant to the HSN, Inc. Deferred Compensation Plan for Non-Employee Directors (such IAC equity incentive plans, the Stock and Annual Incentive Plan and the HSN, Inc. Deferred Compensation Plan for Non-Employee Directors, the "Plans").

In rendering this opinion, I have (i) examined such corporate records and other documents (including the Company's charter and bylaws as currently in effect and the Registration Statement and the exhibits thereto), and have reviewed such matters of law, as I have deemed necessary or appropriate, (ii) assumed the genuineness of all signatures or instruments relied upon by me, and the conformity of certified copies submitted to me with the original documents to which such certified copies relate, and (iii) have further assumed that there will be no changes in applicable law between the date of this opinion and the dates on which the Securities are issued or sold pursuant to the Registration Statement.

The Company is a Delaware corporation, and while I am not engaged in the practice of law in the State of Delaware, I am generally familiar with the Delaware General Corporation Law as presently in effect and have made such inquiries as I considered necessary to render this opinion. I am a member of the Bar of the State of New York and express no opinion as to the laws of any jurisdiction other than the federal laws of the United States, the laws of the State of New York and the Delaware General Corporation Law.

Based on and subject to the foregoing, I am of the opinion that the Securities will be, upon issuance and delivery pursuant to the terms and conditions as set forth in the Registration Statement, legally issued, fully paid and nonassessable.

I hereby consent to be named in the Registration Statement and in the related prospectus contained therein as the attorney who passed upon the legality of the Securities and to the filing of a copy of this opinion as Exhibit 5.1 to the Registration Statement. In giving such consent, I do not thereby admit that I am in the category of persons whose consent is required under Section 7 of the Securities Act of 1933.

Very truly yours,

/s/ Gregory R. Blatt

Executive Vice President, General  
Counsel and Secretary of IAC/InterActiveCorp

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[WLRK Letterhead]

August, 1, 2008

HSN, Inc.  
1 HSN Drive  
St. Petersburg, Florida 33729

Ladies and Gentlemen:

Reference is made to the Registration Statement on Form S-1 (as amended through the date hereof, the "Registration Statement") of HSN, Inc., a Delaware corporation ("HSN"), including the Prospectus, forming a part thereof, relating to the proposed spin-off of HSN from IAC/InterActiveCorp and the related transactions contemplated to occur prior to or contemporaneously with the spin-off of HSN.

We have participated in the preparation of the discussion, set forth in the section entitled "THE SEPARATION—Material U.S. Federal Income Tax Consequences of the Spin-Offs" in the Registration Statement. In our opinion, such discussion of those consequences, insofar as it summarizes United States federal income tax law, is accurate in all material respects.

We hereby consent to the filing of this opinion with the Securities and Exchange Commission as an exhibit to the Registration Statement, and to the references therein to us. In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act of 1933, as amended.

Very truly yours,

/s/Wachtell, Lipton, Rosen & Katz

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**FORM OF**  
**TAX SHARING AGREEMENT**  
 by and among  
**IAC/INTERACTIVECORP,**  
**TICKETMASTER,**  
**INTERVAL LEISURE GROUP, INC.,**  
**HSN, INC.**  
 and  
**TREE.COM, INC.**  
 Dated as of  
 [ ], 2008

**TAX SHARING AGREEMENT**

This TAX SHARING AGREEMENT (this "Agreement"), dated as of [ ], 2008, by and among IAC/InterActiveCorp, a Delaware corporation ("Parent"), Ticketmaster, a Delaware corporation and a wholly-owned subsidiary of Parent ("Ticketmaster Spinco"), Interval Leisure Group, Inc., a Delaware corporation and a wholly-owned subsidiary of Parent ("Interval Spinco"), HSN, Inc., a Delaware corporation and a wholly-owned subsidiary of Parent ("HSN Spinco"), and Tree.com, Inc., a Delaware corporation and a wholly-owned subsidiary of Parent ("Tree Spinco", together with Ticketmaster Spinco, Interval Spinco, and HSN Spinco, the "Spincos", and each of the Spinco's, a "Spinco"). Each of Parent, Ticketmaster Spinco, Interval Spinco, HSN Spinco and Tree Spinco is sometimes referred to herein as a "Party" and collectively, as the "Parties".

**WITNESSETH**

WHEREAS, the Parties have entered into a Separation and Distribution Agreement, dated as of [ ], 2008 (the "Separation Agreement"), providing for the restructuring of Parent and its subsidiaries into the Parent Group, the Ticketmaster Spinco Group, the Interval Spinco Group, the HSN Spinco Group, and the Tree Spinco Group (each as defined herein);

WHEREAS, pursuant to the terms of the Separation Agreement, Parent and its subsidiaries will consummate a series of internal restructuring steps (the "Internal Restructuring Steps") described in the Transactions Memo;

WHEREAS, for federal income tax purposes, it is intended that the Internal Distributions (as defined herein) shall qualify as tax-free transactions under Sections 355(a) and/or 368(a)(1)(D) of the Code;

WHEREAS, pursuant to the terms of the Separation Agreement, the Parties will effect the Distributions (as defined herein) and related transactions;

WHEREAS, for federal income tax purposes, it is intended that the Distributions shall qualify as tax-free transactions under Sections 355(a) and/or 368(a)(1)(D) of the Code;

WHEREAS, at the close of business on the Distribution Date of a Spinco, the taxable year of such Spinco shall close for federal income tax purposes; and

WHEREAS, the Parties wish to provide for the payment of Income Taxes and Other Taxes and entitlement to Refunds thereof, allocate responsibility and provide for cooperation in connection with the filing of returns in respect of Income Taxes and Other Taxes, and provide for certain other matters relating to Income Taxes and Other Taxes.

NOW, THEREFORE, in consideration of the premises and the representations, covenants and agreements herein contained and intending to be legally bound hereby, the Parties agree as follows:

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1. **Definitions.** Capitalized terms used but not defined herein shall have the respective meanings assigned to them in the Separation Agreement. For purposes of this Agreement, the following terms shall have the meanings set forth below:

"Actually Realized" or "Actually Realizes" shall mean, for purposes of determining the timing of the incurrence of any Spin-Off Tax Liability, Income Tax Liability or Other Tax Liability or the realization of a Refund (or any related Tax cost or benefit), whether by receipt or as a credit or other offset to Taxes payable, by a Person in respect of any payment, transaction, occurrence or event, the time at which the amount of Income Taxes or Other Taxes paid (or Refund realized) by such Person is increased above (or reduced below) the amount of Income Taxes or Other Taxes that such Person would have been required to pay (or Refund that such Person would have realized) but for such payment, transaction, occurrence or event.

"Aggregate Spin-Off Tax Liabilities" shall mean the sum of the Spin-Off Tax Liabilities with respect to each Taxing Jurisdiction.

"Breaching Party" shall have the meaning set forth in Section 8(c) hereof.

"Carryback" shall mean the carryback of a Tax Attribute (including, without limitation, a net operating loss, a net capital loss or a tax credit) by a member of a Spinco Group from a Post-Distribution Taxable Period to a Pre-Distribution Taxable Period during which the member of the Spinco Group was included in a Combined Return filed for such Pre-Distribution Taxable Period.



“Carryback Spinco” shall have the meaning set forth in Section 7(b) hereof.

“Cash Acquisition Merger” shall mean a merger of a newly-formed Subsidiary of a Spinco with a corporation, limited liability company, limited partnership, general partnership or joint venture (in each case, not previously owned directly or indirectly by such Spinco) pursuant to which such Spinco acquires such corporation, limited liability company, limited partnership, general partnership or joint venture solely for cash and no Equity Securities of such Spinco or any Subsidiary of such Spinco are issued, sold, redeemed or acquired, directly or indirectly.

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

“Combined Return” shall mean a consolidated, combined or unitary Income Tax Return or Other Tax Return that includes, by election or otherwise, one or more members of the Parent Group together with one or more members of a Spinco Group.

“Compensatory Equity Interests” shall have the meaning set forth in Section 11(a).

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“Distribution” or “Distributions” shall mean, individually or collectively, the Ticketmaster Spinco Distribution, the Interval Spinco Distribution, the HSN Spinco Distribution and the Tree Spinco Distribution.

“Distribution Date” shall mean, with respect to a Spinco, the date on which the Distribution of such Spinco is completed.

“Distribution-Related Proceeding” shall mean any Proceeding in which the IRS, another Tax Authority or any other party asserts a position that could reasonably be expected to adversely affect the Tax-Free Status of any of the Spin-Off-Related Transactions.

“EMA” shall mean the Employee Matters Agreement by and among Parent and the Spinco's dated as of [ ], 2008.

“Employing Party” shall have the meaning set forth in Section 11(a) hereof.

“Equity Securities” shall mean any stock or other securities treated as equity for federal income tax purposes, options, warrants, rights, convertible debt, or any other instrument or security that affords any Person the right, whether conditional or otherwise, to acquire stock or to be paid an amount determined by reference to the value of stock.

“Fifty-Percent or Greater Interest” shall have the meaning ascribed to such term for purposes of Sections 355(d) and (e) of the Code.

“Final Determination” shall mean the final resolution of liability for any Tax, which resolution may be for a specific issue or adjustment or for a taxable period, (a) by IRS Form 870 or 870-AD (or any successor forms thereto), on the date of acceptance by or on behalf of the taxpayer, or by a comparable form under the laws of any other Taxing Jurisdiction, except that a Form 870 or 870-AD or comparable form shall not constitute a Final Determination to the extent that it reserves (whether by its terms or by operation of law) the right of the taxpayer to file a claim for Refund or the right of the Tax Authority to assert a further deficiency in respect of such issue or adjustment or for such taxable period (as the case may be); (b) by a decision, judgment, decree, or other order by a court of competent jurisdiction, which has become final and unappealable; (c) by a closing agreement or accepted offer in compromise under Sections 7121 or 7122 of the Code, or a comparable agreement under the laws of any other Taxing Jurisdiction; (d) by any allowance of a Refund or credit in respect of an overpayment of Tax, but only after the expiration of all periods during which such Refund may be recovered (including by way of offset) by the Taxing Jurisdiction imposing such Tax; or (e) by any other final disposition, including by reason of the expiration of the applicable statute of limitations or by mutual agreement of the parties.

“Group” shall mean the Parent Group, the Ticketmaster Spinco Group, the Interval Spinco Group, the HSN Spinco Group or the Tree Spinco Group, as applicable.

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“HSN Spinco Consolidated Group” shall mean the affiliated group of corporations (within the meaning of Section 1504(a) of the Code without regard to the exclusions in Section 1504(b)(1) through (8)) of which HSN Spinco is the common parent, determined immediately after the HSN Spinco Distribution (and any predecessor or successor to such affiliated group other than the Parent Consolidated Group or any other Spinco Consolidated Group).

“HSN Spinco Distribution” shall mean the distribution by Parent of all the common stock of HSN Spinco *pro rata* to holders of Distributing Common Stock and Distributing Class B Common Stock.

“HSN Spinco Group” shall mean (a) HSN Spinco and each Person that is a direct or indirect Subsidiary of HSN Spinco (including any Subsidiary of HSN Spinco that is disregarded for federal Income Tax purposes (or for purposes of any state, local, or foreign tax law)) immediately after the HSN Spinco Distribution after giving effect to the Spin-Off-Related Transactions, (b) any corporation (or other Person) that shall have merged or liquidated into HSN Spinco or any such Subsidiary and (c) any predecessor or successor to any Person otherwise described in this definition.

“Income Taxes” (a) shall mean (i) any federal, state, local or foreign taxes, charges, fees, imposts, levies or other assessments that are based upon, measured by, or calculated with respect to (A) net income or profits (including, but not limited to, any capital gains, gross receipts, or minimum tax, and any tax on items of tax preference, but not including sales, use, value added, real property gains, real or personal property, transfer or similar taxes), (B) multiple bases (including, but not limited to, corporate franchise, doing business or occupation taxes), if one or more of the bases upon which such tax may be based, by which it may be measured, or with respect to which it may be calculated is described in clause (a)(i)(A) of this definition, or (C) any net worth, franchise or similar tax, in each case together with (ii) any interest and any penalties, fines, additions to tax or additional amounts imposed by any Tax Authority with respect thereto and (b) shall include any transferee or successor liability in respect of an amount described in clause (a) of this definition.

“Income Tax Benefit” shall mean, with respect to a Party and the members of its Group, the excess of (a) the hypothetical Income Tax Liability of the Party and the members of its Group for such taxable period, calculated as if such Carryback had not been utilized but with all other facts unchanged over (b) the actual Income Tax Liability of the Party or the members of its Group for such taxable period, calculated taking into account such Carryback (and treating any Refund as a negative Income Tax Liability for purposes of such calculation).

“Income Tax Return” shall mean any return, report, filing, statement, questionnaire, declaration or other document required to be filed with a Tax Authority in respect of Income Taxes.

“Indemnified Party” shall mean any Person seeking indemnification pursuant to the provisions of this Agreement.

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“Indemnifying Party” shall mean any Party from which any Indemnified Party is seeking indemnification pursuant to the provisions of this Agreement.

“Indemnifying Spinco” shall have the meaning set forth in Section 3(b) hereof.

“Injured Party” shall have the meaning set forth in Section 8(c) hereof.

“Internal Distribution” shall mean any of the Internal Restructuring Steps that is intended to qualify as a tax-free transaction under Section 355(a) and/or 368(a)(1)(D) of the Code.

“Internal Restructuring Steps” shall have the meaning set forth in the recitals to this Agreement.

“Interval” shall mean Interval Acquisition Corp.

“Interval Spinco Consolidated Group” shall mean the affiliated group of corporations (within the meaning of Section 1504(a) of the Code without regard to the exclusions in Section 1504(b)(1) through (8)) of which Interval Spinco is the common parent, determined immediately after the Interval Spinco Distribution (and any predecessor or successor to such affiliated group other than the Parent Consolidated Group or any other Spinco Consolidated Group).

“Interval Spinco Distribution” shall mean the distribution by Parent of all the common stock of Interval Spinco *pro rata* to holders of Distributing Common Stock and Distributing Class B Common Stock.

“Interval Spinco Group” shall mean (a) Interval Spinco and each Person that is a direct or indirect Subsidiary of Interval Spinco (including any Subsidiary of Interval Spinco that is disregarded for federal Income Tax purposes (or for purposes of any state, local, or foreign tax law)) immediately after the Interval Spinco Distribution after giving effect to the Spin-Off-Related Transactions, (b) any corporation (or other Person) that shall have merged or liquidated into Interval Spinco or any such Subsidiary and (c) any predecessor or successor to any Person otherwise described in this definition.

“IRS” shall mean the Internal Revenue Service.

“IRS Ruling” shall mean any private letter ruling issued by the IRS in connection with any of the Spin-Off-Related Transactions.

“IRS Ruling Documents” shall mean the request for a private letter ruling submitted by Parent to the IRS on April 11, 2008, together with the appendices and exhibits thereto, and any supplemental filings or other materials subsequently submitted to the IRS in connection with the Spin-Off-Related Transactions.

“Losses” shall mean any and all losses, liabilities, claims, damages, obligations, payments, costs and expenses, matured or unmatured, absolute or contingent,

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accrued or unaccrued, liquidated or unliquidated, known or unknown (including, without limitation, the costs and expenses of any and all Actions, threatened Actions, demands, assessments, judgments, settlements and compromises relating thereto and attorneys’ fees and any and all expenses whatsoever reasonably incurred in investigating, preparing or defending against any such Actions or threatened Actions).

“Option” shall have the meaning ascribed to such term in the EMA.

“Other Tax Returns” shall mean any return, report, filing, statement, questionnaire, declaration or other document required to be filed with a Tax Authority in respect of Other Taxes.

“Other Taxes” shall mean any federal, state, local or foreign taxes, charges, fees, imposts, levies or other assessments of any nature whatsoever, and without limiting the generality of the foregoing, shall include superfund, sales, use, ad valorem, value added, occupancy, transfer, recording, withholding, payroll, employment, excise, occupation, premium or property taxes (in each case, together with any related interest, penalties and additions to tax, or additional amounts imposed by any Tax Authority thereon); provided, however, that Other Taxes shall not include any Income Taxes.

“Parent Consolidated Group” shall mean the affiliated group of corporations (within the meaning of Section 1504(a) of the Code without regard to the exclusions in Section 1504(b)(1) through (8)) of which Parent is the common parent (and any predecessor or successor to such affiliated group).

“Parent Group” shall mean (a) Parent and each Person that is a direct or indirect Subsidiary of Parent (including any Subsidiary of Parent that is disregarded for federal Income Tax purposes (or for purposes of any state, local, or foreign tax law)) immediately after the Distributions after giving effect to the Spin-Off-Related Transactions, (b) any corporation (or other Person) that shall have merged or liquidated into Parent or any such Subsidiary and (c) any predecessor or successor to any Person otherwise described in this definition.

“Parent Separate Return” shall mean any Separate Return required to be filed by Parent or any member of the Parent Group.

“Participating Spinco” shall have the meaning set forth in Section 6(d) hereof.

“Party” or “Parties” shall have the meaning set forth in the recitals to this Agreement.

“Permitted Transaction” shall mean any transaction that satisfies the requirements of Sections 4(c).

“Person” shall mean any individual, partnership, joint venture, limited liability company, corporation, association, joint stock company, trust, unincorporated

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organization or similar entity or a governmental authority or any department or agency or other unit thereof.

“Post-Distribution Taxable Period” shall mean, with respect to a Spinco and its Subsidiaries, a taxable period that begins after the Distribution Date

of such Spinco.

“Pre-Distribution Taxable Period” shall mean, with respect to a Spinco and its Subsidiaries, a taxable period that ends on or before the Distribution Date of such Spinco.

“Proceeding” shall mean any audit or other examination, or judicial or administrative proceeding relating to liability for, or Refunds or adjustments with respect to, Taxes.

“Refund” shall mean any refund of Taxes, including any reduction in Tax Liabilities by means of a credit, offset or otherwise.

“Relying Party” shall have the meaning set forth in Section 8(d) hereof.

“Representative” shall mean with respect to a Person, such Person’s officers, directors, employees and other authorized agents.

“Representing Spinco” shall have the meaning set forth in Section 4(a) hereof.

“Requesting Spinco” shall have the meaning set forth in Section 4(c)(ii) hereof.

“Responsible Spinco” shall have the meaning set forth in Section 4(e) hereof.

“Restriction Period” shall mean, with respect to a Spinco, the period beginning on the Distribution Date after the Distribution of such Spinco and ending on the twenty five (25) month anniversary thereof.

“Separate Return” shall mean (a) in the case of any Tax Return required to be filed by any member of a Spinco Group (including any consolidated, combined or unitary return), any such Tax Return that does not include any member of the Parent Group or any member of any other Spinco Group and (b) in the case of any Tax Return required to be filed by any member of the Parent Group (including any consolidated, combined or unitary return), any such Tax Return that does not include any member of a Spinco Group.

“Separation Agreement” shall have the meaning set forth in the recitals of this Agreement.

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“Specified Restructuring Income Taxes” shall mean any Income Taxes of Parent or any entity that is or was a direct or indirect Subsidiary of Parent prior to the Distributions resulting from (a) the transfer of any Equity Securities of Interval to Interval Spinco prior to the Interval Spinco Distribution; (b) any transfer of assets by FLMG Holdings Corp. to TM Spinco or one of its Subsidiaries prior to the TM Spinco Distribution; (c) any Internal Distribution failing to achieve Tax-Free Status, (d) the sum of (i) any money and (ii) the fair market value of other property, in each case, transferred by any Spinco or Interval to any shareholder of such Spinco or Interval in connection with a Distribution exceeding (x) such shareholder’s tax basis in its shares of stock of such Spinco or Interval or (y) the net tax basis of any assets contributed by such shareholder to such Spinco, and (e) the triggering of any excess loss account as a result of the Distributions or the Internal Restructuring Steps.

“Spinco Adjustment” shall mean, with respect to a Spinco, an adjustment of any item of income, gain, loss, deduction or credit on a Combined Return that is attributable to members of such Spinco Group (including, in the case of any state or local consolidated, combined or unitary income or franchise Taxes, a change in one or more apportionment factors of members of a Spinco Group) pursuant to a Final Determination for a Pre-Distribution Taxable Period.

“Spinco Business” shall mean, with respect to a Spinco, each trade or business actively conducted (within the meaning of Section 355(b) of the Code) by such Spinco or any member of its respective Spinco Group immediately after the Distribution of such Spinco, as set forth in the IRS Ruling Documents (if applicable) and the Tax Opinion Documents.

“Spinco Consolidated Group” or “Spinco Consolidated Groups” shall mean, individually or collectively, the Ticketmaster Spinco Consolidated Group, the Interval Spinco Consolidated Group, the HSN Spinco Consolidated Group, and the Tree Spinco Consolidated Group.

“Spinco Group” or “Spinco Groups” shall mean, individually or collectively, the Ticketmaster Spinco Group, the Interval Spinco Group, the HSN Spinco Group, and the Tree Spinco Group.

“Spinco Separate Return” shall mean any Separate Return required to be filed by a Spinco or any member of its respective Spinco Group, including, without limitation, (a) any consolidated federal Income Tax Returns of the Spinco Consolidated Group required to be filed with respect to a Post-Distribution Taxable Period and (b) any consolidated federal Income Tax Returns for any group of which any member of the Spinco Group was the common parent.

“Spin-Off-Related Transactions” shall mean, with respect to a Distribution of a Spinco, any related contribution of assets to, and assumption of liabilities by, such Spinco, the Distribution of such Spinco and any Internal Restructuring Steps associated with such Distribution, in each case, as described in the Transactions Memo.

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“Spin-Off Tax Liabilities” shall mean, with respect to any Taxing Jurisdiction, the sum of (a) any increase in a Tax Liability (or reduction in a Refund) Actually Realized as a result of any corporate-level gain or income recognized with respect to the failure of any of the Spin-Off-Related Transactions to qualify for Tax-Free Status under the Income Tax laws of such Taxing Jurisdiction pursuant to any settlement, Final Determination, judgment, assessment, proposed adjustment or otherwise, (b) interest on such amounts calculated pursuant to such Taxing Jurisdiction’s laws regarding interest on Tax liabilities at the highest Underpayment Rate in such Taxing Jurisdiction from the date such additional gain or income was recognized until full payment with respect thereto is made pursuant to Section 3 hereof (or in the case of a reduction in a Refund, the amount of interest that would have been received on the foregone portion of the Refund but for the failure of any of the Spin-Off-Related Transactions to qualify for Tax-Free Status), and (c) any penalties actually paid to such Taxing Jurisdiction that would not have been paid but for the failure of any of the Spin-Off-Related Transactions to qualify for Tax-Free Status in such Taxing Jurisdiction.

“Supplying Party” shall have the meaning set forth in Section 8(d) hereof.

“Tax Attribute” shall mean a consolidated, combined or unitary net operating loss, net capital loss, unused investment credit, unused foreign tax credit, or excess charitable contribution (as such terms are used in Treasury Regulations 1.1502-79 and 1.1502-79A or comparable provisions of foreign, state or local tax law), or a minimum tax credit or general business credit.

“Tax Authority” shall mean a governmental authority (foreign or domestic) or any subdivision, agency, commission or authority thereof or any

quasi-governmental or private body having jurisdiction over the assessment, determination, collection or imposition of any Tax (including, without limitation, the IRS).

“Tax Benefits” shall have the meaning set forth in Section 3(a) hereof.

“Tax Counsel” shall mean tax counsel or an accounting firm of recognized national standing that is acceptable to Parent in its sole discretion.

“Taxes” shall mean Income Taxes and Other Taxes.

“Tax-Free Status” shall mean, with respect to a Distribution, the qualification of each of the Spin-Off-Related Transactions (other than the transfer by Parent of its membership interests in LendingTree, LLC to LendingTree Holdings Corp.) as (a) a transaction described in Sections 355(a) and/or 368(a)(1)(D) of the Code (or, in the case of the Internal Restructuring Steps associated with a Distribution, the qualification of such Internal Restructuring Steps as one or more transactions that are generally tax-free for federal income tax purposes pursuant to Section 351, Section 355, Section 368(a), Sections 332 and 337, or otherwise), (b) except with respect to the Distribution of Tree Spinco, as a transaction in which the stock distributed thereby is “qualified property” for purposes of Section 361(c) of the Code, and (c) as a transaction in which the Parties and the members of their respective Groups recognize no income or

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gain other than intercompany items or excess loss accounts, if any, taken into account pursuant to the Treasury Regulations promulgated pursuant to Section 1502 of the Code.

“Taxing Jurisdiction” shall mean the United States and every other government or governmental unit having jurisdiction to tax one or more of the Parties or any of their respective Affiliates.

“Tax Liabilities” shall mean any liabilities for Taxes.

“Tax Opinions” shall mean the tax opinions issued by Tax Counsel in connection with the Spin-Off-Related Transactions.

“Tax Opinion Documents” shall mean the Tax Opinions and the information and representations provided by, or on behalf of, the Parties to Tax Counsel in connection therewith.

“Tax-Related Losses” shall mean:

- (a) the Aggregate Spin-Off Tax Liabilities,
- (b) all accounting, legal and other professional fees, and court costs incurred in connection with any settlement, Final Determination, judgment or other determination with respect to such Aggregate Spin-Off Tax Liabilities, and
- (c) all costs, expenses and damages associated with stockholder litigation or controversies and any amount paid by a Party in respect of the liability of shareholders, whether paid to shareholders or to the IRS or any other Tax Authority payable by a Party or its respective Affiliates, in each case, resulting from the failure of any of the Spin-Off-Related Transactions to qualify for Tax-Free Status.

“Ticketmaster Spinco Consolidated Group” shall mean the affiliated group of corporations (within the meaning of Section 1504(a) of the Code without regard to the exclusions in Section 1504(b)(1) through (8)) of which Ticketmaster Spinco is the common parent, determined immediately after the Ticketmaster Spinco Distribution (and any predecessor or successor to such affiliated group other than the Parent Consolidated Group or any other Spinco Consolidated Group).

“Ticketmaster Spinco Distribution” shall mean the distribution by Parent of all the common stock of Ticketmaster Spinco *pro rata* to holders of Distributing Common Stock and Distributing Class B Common Stock.

“Ticketmaster Spinco Group” shall mean (a) Ticketmaster Spinco and each Person that is a direct or indirect Subsidiary of Ticketmaster Spinco (including any Subsidiary of Ticketmaster Spinco that is disregarded for federal Income Tax purposes (or for purposes of any state, local, or foreign tax law)) immediately after the Ticketmaster Spinco Distribution after giving effect to the Spin-Off-Related Transactions, (b) any corporation (or other Person) that shall have merged or liquidated

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into Ticketmaster Spinco or any such Subsidiary and (c) any predecessor or successor to any Person otherwise described in this definition.

“Tree Spinco Consolidated Group” shall mean the affiliated group of corporations (within the meaning of Section 1504(a) of the Code without regard to the exclusions in Section 1504(b)(1) through (8)) of which Tree Spinco is the common parent, determined immediately after the Tree Spinco Distribution (and any predecessor or successor to such affiliated group other than the Parent Consolidated Group or any other Spinco Consolidated Group).

“Tree Spinco Distribution” shall mean the distribution by Parent of all the common stock of Tree Spinco *pro rata* to holders of Distributing Common Stock and Distributing Class B Common Stock.

“Tree Spinco Group” shall mean (a) Tree Spinco and each Person that is a direct or indirect Subsidiary of Tree Spinco (including any Subsidiary of Tree Spinco that is disregarded for federal Income Tax purposes (or for purposes of any state, local, or foreign tax law)) immediately after the Tree Spinco Distribution after giving effect to the Spin-Off-Related Transactions, (b) any corporation (or other Person) that shall have merged or liquidated into Tree Spinco or any such Subsidiary and (c) any predecessor or successor to any Person otherwise described in this definition.

“Underpayment Rate” shall mean the annual rate of interest described in Section 6621(c) of the Code for large corporate underpayments of Income Tax (or similar provision of state, local, or foreign Income Tax law, as applicable), as determined from time to time.

“Unqualified Tax Opinion” shall mean an unqualified opinion of Tax Counsel on which Parent may rely to the effect that a transaction (a) will not disqualify any of the Spin-Off-Related Transactions from having Tax-Free Status, assuming that the Spin-Off-Related Transactions would have qualified for Tax-Free Status if such transaction did not occur, and (b) will not adversely affect any of the conclusions set forth in the IRS Ruling (if applicable) or the Tax Opinions; provided, that any tax opinion obtained in connection with a proposed acquisition of Equity Securities of a Spinco (or any entity treated as a successor to such Spinco), other than Tree Spinco, entered into during the Restriction Period shall not qualify as an Unqualified Opinion unless such tax opinion concludes that such proposed acquisition will not be treated as “part of a plan (or series of related transactions),” within the meaning of Section 355(e) of the Code and the Treasury Regulations promulgated thereunder, that includes the Distribution of such Spinco.

## 2. Filing of Tax Returns; Payment of Taxes

### (a) Filing of Tax Returns; Payment of Income Taxes and Other Taxes

(i) Parent Consolidated Returns; Other Combined Returns. Parent shall prepare and file or cause to be prepared and filed (A) all consolidated federal Income

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Tax Returns of the Parent Consolidated Group and (B) all other Combined Returns for all taxable periods that end, with respect to a Spinco, on or before or include the Distribution Date of such Spinco. Parent shall pay, or cause to be paid, any and all Taxes due or required to be paid with respect to or required to be reported on any such Tax Return (in each case, including any increase in such Tax Liabilities attributable to a Final Determination with respect to a Pre-Distribution Taxable Period (including a Spinco Adjustment); provided that Parent shall not be responsible for any Spinco Adjustment if the Spinco Group to which such Spinco Adjustment relates fails to promptly provide such cooperation as is requested by Parent in connection with Parent's conduct of the Proceeding to which such Final Determination relates).

(ii) Parent Separate Returns. Parent shall prepare and file or cause to be prepared and filed all Parent Separate Returns for all taxable periods. Parent shall pay, or cause to be paid, any and all Taxes due or required to be paid with respect to or required to be reported on any Parent Separate Return (including any increase in such Tax Liabilities attributable to a Final Determination).

(iii) Spinco Adjustments. If a Spinco fails to promptly provide such cooperation as is requested by Parent in connection with Parent's conduct of a Proceeding relating to a Spinco Adjustment with respect to such Spinco, such Spinco shall be responsible for any Tax Liabilities attributable to such Spinco Adjustment.

(iv) Spinco Separate Returns. Each Spinco shall prepare and file or cause to be prepared and filed its respective Spinco Separate Returns for all taxable years. Each Spinco shall pay, or cause to be paid, and shall be responsible for, any and all Taxes due or required to be paid with respect to or required to be reported on its Spinco Separate Returns (including any increase in such Tax Liabilities attributable to a Final Determination).

### (b) Preparation of Tax Returns.

(i) Parent (or its designee) shall determine the entities to be included in any Combined Return and make or revoke any Tax elections, adopt or change any Tax accounting methods, and determine any other position taken on or in respect of any Tax Return required to be prepared and filed by Parent pursuant to Section 2(a)(i) or (ii). Any Tax Return filed by Parent pursuant to Section 2(a)(i) with respect to any Pre-Distribution Taxable Period shall, to the extent relating to one or more of the Spinco's or their respective Spinco Groups, be prepared in good faith. For the avoidance of doubt, with respect to the consolidated federal income tax return of Parent and its subsidiaries for any taxable year that includes one or more Distributions, Parent shall determine in its sole discretion whether to elect ratable allocation under Treasury Regulation Section 1.1502-76. Each Spinco shall, and shall cause each member of its respective Spinco Group to, take all actions necessary to give effect to such election. Each Spinco shall, and shall cause each member of its respective Spinco Group to, prepare and submit at Parent's request (but in no event later than 90 days after such request), at its own expense, all information that Parent shall reasonably request, in such form as Parent shall reasonably request, including any such information requested to enable Parent to prepare any Tax Return required to be filed by Parent pursuant to Section 2(a)(i).

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(ii) Except as otherwise required by applicable law or as a result of a Final Determination, (A) no Party shall, or permit or cause any member of its respective Group to, take any position that is either inconsistent with the treatment of the Spin-Off-Related Transactions as having Tax-Free Status (or analogous status under state, local or foreign law) and, (B) no Spinco shall, or permit or cause any member of its respective Spinco Group to, take any position with respect to an item of income, deduction, gain, loss, or credit on a Tax Return, or otherwise treat such item in a manner which is inconsistent with the manner such item is reported on a Tax Return required to be prepared or filed by Parent pursuant to Section 2(a) hereof (including, without limitation, the claiming of a deduction previously claimed on any such Tax Return).

## 3. Indemnification for Income Taxes and Other Taxes

(a) Indemnification by Parent. From and after the Distribution of a Spinco, except as otherwise provided in Sections 3(b) and 3(c), Parent and each member of the Parent Group shall be responsible for and shall jointly and severally indemnify, defend and hold harmless such Spinco and each member of its Spinco Group and each of its Representatives and Affiliates (and the heirs, executors, successors and assigns of any of them) from and against (i) all Spin-Off Tax Liabilities incurred by any member of the Parent Group, (ii) without duplication, all Tax Liabilities that any member of the Parent Group is required to pay pursuant to Section 2, (iii) all Taxes, Spin-Off Tax Liabilities and Tax-Related Losses incurred by any member of any Group by reason of the breach by Parent or a member of the Parent Group of any of its representations or covenants hereunder or made in connection with the IRS Ruling (if applicable) and/or the Tax Opinions and, in each case, any related costs and expenses (including, without limitation, reasonable attorneys' fees and expenses), and (iv) all Specified Restructuring Income Taxes; provided, however, that neither Parent nor any member of the Parent Group shall have any obligation to indemnify, defend or hold harmless any Person pursuant to this Section 3(a) to the extent that such indemnification obligation is otherwise attributable to a breach by a Spinco (or a member of its Group) of any of its representations or covenants hereunder or made in connection with the IRS Ruling (if applicable) and/or the Tax Opinions; provided, that (x) in the event that an IRS Ruling is not obtained with respect to the Distribution of a Spinco, neither Parent nor such Spinco shall be deemed to make any representations regarding such Distribution in the IRS Ruling Documents, and (y) no Spinco makes any representations regarding any facts that, if untrue, would result in Specified Restructuring Income Taxes (other than representations regarding (1) whether such Spinco is engaged in the active conduct of a trade or business within the meaning of Section 355(b) of the Code, (2) such Spinco's conduct after the Distribution, and (3) the matters set forth in Section 4(a) (iii) hereof). If the indemnification obligation of Parent or any member of the Parent Group under this Section 3(a) (or any adjustment for which Parent is responsible pursuant to this Section 3(a), including any adjustment with respect to a Tax Return for which Parent is responsible pursuant to Section 2(a)(i)) results in (i) increased deductions, losses, or credits, or (ii) decreases in income, gains or recapture of Tax credits ("Tax Benefits") to a Spinco or any member of such Spinco's Group, which would not, but for the indemnification obligation (or the adjustment giving rise to such indemnification obligation), be allowable, then each Spinco receiving such Tax Benefit shall pay Parent the amount by which such Tax Benefit actually reduces, in cash, the amount of Tax that such Spinco or any member of its Spinco Group would have been required to pay and bear (or increases, in cash, the amount of a Refund to

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which such Spinco or any member of its Spinco Group would have been entitled) but for such indemnification obligation (or adjustment giving rise to such indemnification obligation). Each Spinco receiving the Tax Benefit shall pay Parent for such Tax Benefit no later than five days after such Tax Benefit is Actually Realized.

(b) Indemnification by Spinco's. From and after the Distribution Date of a Spinco, such Spinco (an "Indemnifying Spinco") and each member of its Spinco Group shall be responsible for and shall jointly and severally indemnify, defend and hold harmless each other Party and the members of each other

Party's respective Group and their respective Representatives and Affiliates (and the heirs, executors, successors and assigns of any of them) from and against (i) all Tax Liabilities (including Specified Restructuring Taxes), Spin-Off Tax Liabilities and Tax-Related Losses that the Indemnifying Spinco or any member of its Spinco Group is required to pay under Section 2 or is responsible for under Section 4 (including, without limitation, any Tax Liabilities or Spin-Off Tax Liabilities or Tax-Related Losses arising with respect to a Permitted Transaction for which the Indemnifying Spinco is liable pursuant to Section 4(e)(i)); (ii) all Taxes (including Specified Restructuring Income Taxes), Spin-Off Tax Liabilities and other Tax-Related Losses incurred by any member of any Group by reason of the breach by the Indemnifying Spinco or any member of its Spinco Group of any of its representations or covenants hereunder or made in connection with the IRS Ruling (if applicable) and/or the Tax Opinions) and, in each case, any related costs and expenses (including, without limitation, reasonable attorneys' fees and expenses); provided, that (x) in the event that an IRS Ruling is not obtained with respect to the Distribution of a Spinco, such Spinco shall not be deemed to make any representations regarding such Distribution in the IRS Ruling Documents, and (y) no Spinco makes any representations regarding any facts that, if untrue, would result in Specified Restructuring Income Taxes (other than representations regarding (1) whether such Spinco is engaged in the active conduct of a trade or business within the meaning of Section 355(b) of the Code, (2) such Spinco's conduct after the Distribution, and (3) the matters set forth in Section 4(a)(iii) hereof). If the indemnification obligation of a Spinco or any member of its Spinco Group under this Section 3(b) (or any adjustment for which such Spinco is responsible pursuant to this Section 3(b)) results in a Tax Benefit to another Party or any member of such other Party's Group, which would not, but for the Tax which is the subject of the indemnification obligation (or the adjustment giving rise to such indemnification obligation), be allowable, then each Party receiving such Tax Benefit shall pay the Indemnifying Spinco the amount by which such Tax Benefit actually reduces, in cash, the amount of Tax that the Party or any member of its Group would have been required to pay and bear (or increases, in cash, the amount of a Refund to which the Party or any member of its Group would have been entitled) but for such indemnification (or adjustment giving rise to such indemnification obligation). Each Party receiving such Tax Benefit shall pay the Indemnifying Spinco for such Tax Benefit no later than five days after such Tax Benefit is Actually Realized.

(c) Spinco Group Indemnification Failure. In the event that (i) pursuant to a Final Determination, any member of a Spinco Group is liable for, or otherwise required to make a payment in respect of, Spin-Off Tax Liabilities for which such Spinco Group is not responsible pursuant to this Agreement and (ii) full indemnification cannot be obtained from the Spinco Group responsible for such Spin-Off Tax Liabilities pursuant to this Agreement, Parent and each member of the Parent Group shall jointly and severally indemnify, defend and hold harmless the Spinco referred to in clause (i) and each member of its Spinco Group and each

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of its respective Representatives and Affiliates (and the heirs, executors, successors and assigns of any of them) from and against the portion of such liability for which full indemnification cannot be obtained from the Spinco Group referred to in clause (ii). Upon any payment by Parent or any member of the Parent Group in accordance with the preceding sentence, Parent or such member of the Parent Group shall be subrogated to any and all rights (including rights to payment and causes of action, under this Agreement or otherwise) of each member of the Spinco Group described in clause (i) in connection with the Final Determination at issue.

(d) Timing of Indemnification Payments. Any payment and indemnification made pursuant to this Section 3 shall be made by the Indemnifying Party promptly, but, in any event, no later than:

(i) in the case of an indemnification obligation with respect to any Tax Liabilities or Spin-Off Tax Liabilities, the later of (A) five Business Days after the Indemnified Party notifies the Indemnifying Party and (B) five Business Days prior to the date the Indemnified Party is required to make a payment of taxes, interest, or penalties to the applicable Tax Authority (including a payment with respect to an assessment of a tax deficiency by any Taxing Jurisdiction or a payment made in settlement of an asserted tax deficiency) or realizes a reduced Refund; and

(ii) in the case of any payment or indemnification of any Losses not otherwise described in clause (i) of this Section 3(d) (including, but not limited to, any Losses described in clause (b) or (c) of the definition of Tax-Related Losses, attorneys' fees and expenses and other indemnifiable Losses), the later of (A) five Business Days after the Indemnified Party notifies the Indemnifying Party and (B) five Business Days prior to the date the Indemnified Party makes a payment thereof.

#### 4. Spin-Off Related Matters.

(a) Representations.

(i) IRS Ruling Documents and Tax Opinion Documents. Each Spinco (a "Representing Spinco") hereby represents and warrants that (A) such Representing Spinco has examined the IRS Ruling Documents and the Tax Opinion Documents (including, without limitation, the representations to the extent that they relate to the plans, proposals, intentions, and policies of the Representing Spinco or any member of its Spinco Group, or the Spinco Business of such Spinco Group), and (B) to the extent in reference to such Representing Spinco, any member of its Spinco Group, or the Spinco Business of such Spinco Group, the facts presented and the representations made therein are true, correct and complete; provided, that (x) in the event that an IRS Ruling is not obtained with respect to the Distribution of a Spinco, such Spinco shall not be deemed to make any representations regarding such Distribution in the IRS Ruling Documents, and (y) no Spinco makes any representations regarding any facts that, if untrue, would result in Specified Restructuring Income Taxes (other than representations regarding (1) whether such Spinco is engaged in the active conduct of a trade or business within the meaning of Section 355(b) of the Code, (2) such Spinco's conduct after the Distribution, and (3) the matters set forth in Section 4(a)(iii) hereof).

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(ii) Tax-Free Status. Each Representing Spinco hereby represents and warrants that it has no plan or intention of taking any action, or failing to take any action or knows of any circumstance, that could reasonably be expected to cause any representation or factual statement made in this Agreement, the Separation Agreement, the IRS Ruling Documents, the Tax Opinion Documents or any of the Ancillary Agreements to be untrue; provided, that, in the event that an IRS Ruling is not obtained with respect to the Distribution of a Spinco, such Spinco shall not be deemed to make any representations regarding the IRS Ruling Documents.

(iii) Plan or Series of Related Transactions. Each Representing Spinco hereby represents and warrants that, during the two-year period ending on the Distribution Date of such Spinco, there was no "agreement, understanding, arrangement, substantial negotiations or discussions" (as such terms are defined in Treasury Regulation Section 1.355-7(h)) by any one or more officers or directors of any member of such Spinco Group or by any other person or persons with the implicit or explicit permission of one or more of such officers or directors regarding an acquisition of all or a significant portion of the Equity Securities of such Spinco (or any predecessor); provided that no representation is made by any Spinco regarding any "agreement, understanding, arrangement, substantial negotiations or discussions" (as such terms are defined in Treasury Regulation 1.355-7(h)) by any one or more officers or directors of Parent.

(b) Covenants.

(i) Actions Consistent with Representations and Covenants. No Spinco (or any member of its respective Spinco Group) shall take any action, or fail to take any action or permit any member of its respective Group, to fail to take any action, where such action or failure to act would be inconsistent with or cause to be untrue any material information, covenant or representation made in connection with the IRS Ruling (if applicable), the Tax Opinions, the Separation Agreement or this Agreement.

(ii) Preservation of Tax-Free Status; Spinco Business. From and after its respective Distribution, no Spinco shall (A) take any action or permit any member of its respective Spinco Group to take any action, and each Spinco shall not fail to take any action or permit any member of its respective Spinco Group to fail to take any action, in each case, unless such action or failure to act could not reasonably be expected to cause any of the Spin-Off-Related Transactions to fail to

have Tax-Free Status or could not require any of the Parties to reflect a liability or reserve for Income Taxes with respect to any of the Spin-Off-Related Transactions in its financial statements, and (B) until the first day after the Restriction Period, engage in any transaction that could reasonably be expected to result in it or any member of its respective Spinco Group ceasing to be a company engaged in its respective Spinco Business.

(iii) Sales, Issuances and Redemptions of Equity Securities. Until the first day after the Restriction Period applicable to a Spinco, such Spinco shall not and shall not agree to (and shall cause the members of its respective Spinco Group not to and not to agree to) sell or otherwise issue to any Person, or redeem or otherwise acquire from any Person, any Equity Securities of such Spinco or any member of its Spinco Group; provided, however,

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that (A) the adoption of a shareholder rights plan shall not constitute a sale or issuance of Equity Securities, (B) a Spinco may issue Equity Securities to the extent the issuance satisfies Safe Harbor VIII (relating to acquisitions in connection with a person's performance of services) or Safe Harbor IX (relating to acquisitions by a retirement plan of an employer) of Treasury Regulation Section 1.355-7(d), and (C) members of a Spinco Group (other than a Spinco) may issue or sell Equity Securities to other members of the same Spinco Group, and may redeem or purchase Equity Securities from other members of the same Spinco Group, in each case, to the extent not inconsistent with the Tax-Free Status of the Spin-Off Related Transactions. Anything in this Section 4(b)(iii) to the contrary notwithstanding, there shall be no limitation on the ability of Tree Spinco to issue Equity Securities of Tree Spinco (or any member of its Group to issue Equity Securities of such member) to any Person, or to redeem or otherwise acquire from any Person, any Equity Securities of Tree Spinco or any member of its Group; provided that any redemption or acquisition of Equity Securities of Tree Spinco by Tree Spinco or any member of its Spinco Group prior to (or pursuant to an agreement or arrangement negotiated, in whole or in part, prior to) the first anniversary of the Distribution Date of Tree Spinco shall be permitted only if such transaction satisfies the requirements of Section 4.05(1)(b) of Revenue Procedure 96-30.

(iv) Tender Offers: Other Business Combination Transactions. Until the first day after the Restriction Period applicable to a Spinco, such Spinco shall (and shall cause the members of its Spinco Group) not to (A) solicit any Person to make a tender offer for, or otherwise acquire or sell, Equity Securities of such Spinco, (B) participate in or support any unsolicited tender offer for, or other acquisition or disposition of, Equity Securities of such Spinco, or (C) approve or otherwise permit any transaction described in clauses (A) or (B). In addition, no Spinco (nor any members of its respective Spinco Group) shall at any time, whether before or subsequent to the expiration of the Restriction Period applicable to such Spinco, engage in any action described in clauses (A), (B) or (C) of the preceding sentence pursuant to an agreement or arrangement negotiated (in whole or in part) prior to the first anniversary of the Distribution of such Spinco, even if at the time of the Distribution or thereafter such action is subject to one or more conditions. Anything in this Section 4(b)(iv) to the contrary notwithstanding, unless (x) such action is taken prior to the first anniversary of the Distribution Date of Tree Spinco (or pursuant to an agreement or arrangement negotiated, in whole or in part, prior to the first anniversary of the Distribution Date of Tree Spinco) and (y) relates to a "subsequent sale or exchange" (within the meaning of Treasury Regulation Section 1.355-2(d)(2)(iii) (taking into account clause (E) thereof) of Tree Spinco stock, the limitations described in this Section 4(b)(iv) shall not apply to Tree Spinco (or any member of its Spinco Group).

(v) Dispositions of Assets. Until the first day after the Restriction Period, no Spinco (nor any member of its respective Spinco Group) shall sell, transfer, or otherwise dispose of or agree to sell, transfer or otherwise dispose (including in any transaction treated for federal income tax purposes as a sale, transfer or disposition) of assets (including, any shares of capital stock of a Subsidiary) that, in the aggregate, constitute more than 30% of the gross assets of such Spinco or more than 30% of the consolidated gross assets of such Spinco Group. The foregoing sentence shall not apply to (A) sales, transfers, or dispositions of assets in the ordinary course of business, (B) any cash paid to acquire assets from an unrelated Person in an arm's-length transaction, or (C) any assets transferred to a Person that

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is disregarded as an entity separate from the transferor for federal income tax purposes or (D) any mandatory or optional repayment (or pre-payment) of any indebtedness of such Spinco (or any member of its Spinco Group). The percentages of gross assets or consolidated gross assets of such Spinco or its respective Spinco Group, as the case may be, sold, transferred, or otherwise disposed of, shall be based on the fair market value of the gross assets of such Spinco and the members of its respective Spinco Group as of the Distribution Date of such Spinco. For purposes of this Section 4(b)(v), a merger of a Spinco or one of its Subsidiaries with and into any Person shall constitute a disposition of all of the assets of such Spinco or such Subsidiary.

(vi) Liquidations, Mergers, Reorganizations. Until the first day after the Restriction Period, no Spinco (nor any of its Subsidiaries) shall, or shall agree to, voluntarily dissolve or liquidate (including by converting into an entity that is treated as a "disregarded entity" or partnership for federal income tax purposes) or engage in any transaction involving a merger (except for a Cash Acquisition Merger), consolidation or other reorganization; provided, that, mergers of direct or indirect wholly-owned Subsidiaries of a Spinco solely with and into such Spinco or with other direct or indirect wholly-owned Subsidiaries of such Spinco, and liquidations of such Spinco's wholly-owned subsidiaries are not subject to this Section 4(b)(vi) to the extent not inconsistent with the Tax-Free Status of the Spin-Off-Related Transactions.

(c) Permitted Transactions.

(i) Anything in Sections 4(b)(iii) and 4(b)(iv) to the contrary notwithstanding, a Spinco (or any member of its Group) shall not be prohibited from entering into or consummating a transaction otherwise prohibited solely by Section 4(b)(iii) or 4(b)(iv), if such transaction, together with any other transaction or transactions previously permitted pursuant to this Section 4(c)(i), would not result in one or more Persons acquiring, directly or indirectly, Equity Securities representing a 10% or greater interest, by vote or value, in such Spinco (or any successor thereto) pursuant to one or more transactions that have not been approved by Parent pursuant to Section 4(c)(ii). In the event the transaction at issue is a redemption or purchase of Equity Securities of a Spinco by such Spinco or a member of its Spinco Group prior to (or pursuant to an agreement or arrangement negotiated, in whole or in part, prior to) the first anniversary of the Distribution Date of such Spinco, such transaction shall be permitted only if it also satisfies the requirements of Section 4.05(1)(b) of Revenue Procedure 96-30.

(ii) Notwithstanding the restrictions otherwise imposed by Sections 4(b)(iii) through 4(b)(vi), during the Restriction Period, a Spinco (the "Requesting Spinco") may (i) issue, sell, redeem or otherwise acquire (or cause a member of its respective Spinco Group to issue, sell, redeem or otherwise acquire) its own Equity Securities or Equity Securities of any member of its respective Spinco Group in a transaction that would otherwise breach the covenant set forth in Section 4(b)(iii) (determined after giving effect to Section 4(c)(i)), (ii) approve, participate in, support or otherwise permit a proposed business combination or transaction that would otherwise breach the covenant set forth in Section 4(b)(iv) (determined after giving effect to Section 4(c)(i)), (iii) sell or otherwise dispose of its assets or the assets of any member of its respective Spinco Group in a transaction that would otherwise breach the covenant set forth in Section 4(b)(v), or (iv) merge itself or any member of its respective Spinco Group with another

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entity without regard to which party is the surviving entity in a transaction that would otherwise breach the covenant set forth in Section 4(b)(vi), if and only if such transaction would not violate Section 4(b)(i) or Section 4(b)(ii) and prior to entering into any agreement contemplating a transaction described in clauses (i), (ii), (iii) or (iv) of this Section 4(c)(ii), and prior to consummating any such transaction: (X) the Requesting Spinco obtains Parent's written consent (which may be withheld in Parent's sole discretion), (Y) the Requesting Spinco provides Parent with an Unqualified Tax Opinion (or, subject to Section 4(d)(iii), a private letter ruling), in each case, in form and substance satisfactory to Parent in its sole and absolute discretion exercised in good faith (and in determining whether an opinion or ruling is satisfactory, Parent may consider,

among other factors, the appropriateness of any underlying assumptions and management's representations if used as a basis for the opinion or supplemental ruling), or (Z) the Requesting Spinco shall request that Parent obtain a private letter ruling (or, if applicable, a supplemental private letter ruling) in accordance with Section 4(d)(ii) of this Agreement to the effect that such transaction will not affect the Tax-Free Status of any of the Spin-Off-Related Transactions and Parent shall have received such private letter ruling, in form and substance satisfactory to Parent in its sole and absolute discretion, exercised in good faith. Notwithstanding the foregoing, with respect to any action or transaction involving an acquisition of the Requesting Spinco's stock entered into at least 18 months after the Distribution Date of the Requesting Spinco, the Requesting Spinco shall be permitted to consummate such transaction if it delivers an unconditional officer's certificate establishing facts evidencing that such acquisition satisfies the requirements of Safe Harbor III in Treasury Regulation Section 1.355-7(d), and Parent, after due diligence, is satisfied with the accuracy of such certification.

(d) Private Letter Rulings and Restrictions on the Spincos

(i) Private Letter Ruling at Parent's Request Parent shall have the right to obtain a private letter ruling (or, if applicable, a supplemental private letter ruling) in its sole discretion. If Parent determines to obtain a private letter ruling, each Spinco shall (and shall cause each member of its respective Spinco Group to) cooperate with Parent and take any and all actions reasonably requested by Parent in connection with obtaining the private letter ruling (including, without limitation, by making any representation or covenant or providing any materials or information requested by any Tax Authority; provided that none of the Spincos shall be required to make (or cause any member of their respective Spinco Groups to make) any representation or covenant that is inconsistent with historical facts or as to future matters or events over which it has no control).

(ii) Private Letter Rulings at Spinco's Request Parent agrees that at the reasonable request of a Requesting Spinco pursuant to Section 4(c), Parent shall (and shall cause each member of the Parent Group to) cooperate with the Requesting Spinco and use reasonable efforts to seek to obtain, as expeditiously as reasonably practicable, a private letter ruling (or supplemental private letter ruling) from the IRS for the purpose of confirming compliance on the part of the Requesting Spinco or any member of its respective Spinco Group with its obligations under Section 4(b) of this Agreement. Further, in no event shall Parent be required to file any request for a private letter ruling under this Section 4(d)(ii) unless the Requesting Spinco represents that (A) it has reviewed the request for the private letter ruling and any materials, appendices and exhibits submitted or filed therewith, and (B) all information and representations, if any, relating to any member of the Requesting Spinco's Spinco Group

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contained in the IRS Ruling Documents (if applicable) or Tax Opinion Documents are true, correct and complete in all material respects. The Requesting Spinco shall reimburse Parent for all reasonable costs and expenses incurred by the Parent Group in obtaining a private letter ruling requested by the Requesting Spinco within 10 Business Days after receiving an invoice from Parent therefor. Each Spinco hereby agrees that Parent shall have sole and exclusive control over the process of obtaining a private letter ruling, and that only Parent shall have the right to apply for a private letter ruling relating to any of the Spin-Off-Related Transactions. In connection with obtaining a private letter ruling pursuant to this Section 4(d)(ii), (A) Parent shall, to the extent practicable, consult with the Requesting Spinco reasonably in advance of taking any material action in connection therewith; (B) Parent shall (1) reasonably in advance of the submission of any documents to the IRS provide the Requesting Spinco with a draft copy thereof, (2) reasonably consider the Requesting Spinco's comments on such documents, and (3) provide the Requesting Spinco with copies of all documents submitted to or received from the Tax Authority in connection with such ruling request; and (C) Parent shall provide the Requesting Spinco with notice reasonably in advance of, and the Requesting Spinco shall have the right to attend and participate in, any formally scheduled meetings with any Tax Authority (subject to the approval of the Tax Authority) that relate to such supplemental private letter ruling.

(iii) Prohibition on the Spincos Each Spinco hereby agrees that, except to the extent permitted by Section 4(d)(ii) or as otherwise consented to by Parent in writing, neither it nor any member of its respective Spinco Group shall seek any guidance from the IRS or any other Tax Authority (whether written, verbal or otherwise) concerning any of the Spin-Off-Related Transactions (or the impact of any transaction on any of the Spin-Off-Related Transactions).

(e) Liability of each Spinco for Undertaking Certain Actions Notwithstanding anything in this Agreement to the contrary, each Spinco (a "Responsible Spinco") and the members of its respective Spinco Group shall be responsible for any and all Tax-Related Losses that are attributable to, or result from:

(i) any act or failure to act by the Responsible Spinco or any member of its respective Spinco Group, which action or failure to act is inconsistent with any of the covenants set forth in Sections 4(b)(i) through 4(b)(vi) of this Agreement, in each case, determined without regard to any of the exceptions or provisos contained in such provisions or in Section 4(c), expressly including, for this purpose, any Permitted Transaction and any act or failure to act that is inconsistent with Section 4(b)(i) or 4(b)(ii), regardless of whether such act or failure to act is permitted by Sections 4(b)(iii) through 4(b)(vi);

(ii) any acquisition or disposition of Equity Securities of the Responsible Spinco or any member of its respective Spinco Group by any Person or Persons (including, without limitation, as a result of an issuance of the Responsible Spinco's Equity Securities or a merger of another entity with and into the Responsible Spinco or any member of its respective Spinco Group) or any acquisition of assets of the Responsible Spinco or any member of its respective Spinco Group (including, without limitation, as a result of a merger) by any Person or Persons; and

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(iii) any breach by the Responsible Spinco or any member of its Spinco Group of a representation or covenant made in this Agreement, the Separation Agreement, any Ancillary Agreement, or any documents relating to the IRS Ruling or the Tax Opinions; provided, that (x) in the event that an IRS Ruling is not obtained with respect to the Distribution of a Spinco, such Spinco shall not be deemed to make any representations regarding such Distribution in the IRS Ruling Documents, and (y) no Spinco makes any representations regarding any facts that, if untrue, would result in Specified Restructuring Income Taxes (other than representations regarding (1) whether such Spinco is engaged in the active conduct of a trade or business within the meaning of Section 355(b) of the Code, (2) such Spinco's conduct after the Distribution, and (3) the matters set forth in Section 4(a)(iii) hereof).

(f) Cooperation.

(i) Without limiting the prohibition set forth in Section 4(d)(iii), until the first day after the Restriction Period, each Spinco shall furnish Parent with a copy of any ruling request that any member of its respective Spinco Group may file with the IRS or any other Tax Authority and any opinion received that in any respect relates to, or otherwise reasonably could be expected to have any effect on, the Tax-Free Status of any of the Spin-Off-Related Transactions with respect to such Spinco.

(ii) Each Party shall reasonably cooperate with the Requesting Spinco in connection with any request by the Requesting Spinco for an Unqualified Tax Opinion pursuant to Section 4(c)(ii).

(iii) Until the first day after the Restriction Period, each Spinco shall provide adequate advance notice to Parent in accordance with the terms of Section 4(f)(iv) of any action described in Sections 4(b)(i) through 4(b)(vi) within a period of time sufficient to enable Parent to seek injunctive relief pursuant to Section 4(g) in a court of competent jurisdiction; provided that Tree Spinco shall not be required to provide advance notice with respect to any action described in Sections 4(b)(iii) through 4(b)(vi) with respect to which Tree Spinco is not subject to restrictions.

(iv) Each notice required by Section 4(f)(iii) shall set forth the terms and conditions of any such proposed transaction, including,



without limitation, (A) the nature of any related action proposed to be taken by the board of directors of such Spinco, (B) the approximate number of Equity Securities (and their voting and economic rights) of such Spinco or any member of its respective Spinco Group (if any) proposed to be sold (or otherwise issued) or acquired, (C) the approximate value of such Spinco's assets (or assets of any member of its respective Spinco Group) proposed to be transferred, and (D) the proposed timetable for such transaction, all with sufficient particularity to enable Parent to seek such injunctive relief. Promptly, but in any event within 30 days, after Parent receives such written notice from such Spinco, Parent shall notify such Spinco in writing of Parent's decision to seek injunctive relief pursuant to Section 4(g).

(v) Until the first day after the Restriction Period, no Spinco nor any member of its respective Spinco Group shall take (or refrain from taking) any action to the extent that such action or inaction would have caused a representation made with respect to

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such Spinco in connection with the IRS Ruling (but only if such IRS Ruling was received) and/or the Tax Opinions to have been untrue as of the relevant representation date, had such Spinco or any member of its respective Spinco Group intended to take (or refrain from taking) such action on the relevant representation date.

(g) **Enforcement.** The Parties acknowledge that irreparable harm would occur in the event that any of the provisions of this Section 4 were not performed in accordance with their specific terms or were otherwise breached. The Parties agree that, in order to preserve the Tax-Free Status of the Spin-Off-Related Transactions, injunctive relief is appropriate to prevent any violation of the foregoing covenants; provided, however, that injunctive relief shall not be the exclusive legal or equitable remedy for any such violation.

5. **Refunds.** Parent shall be entitled to all Refunds (and any interest thereon received from the applicable Tax Authority) in respect of Taxes paid with respect to any Tax Return for which Parent or any member of the Parent Group is responsible pursuant to Section 2. Each Spinco shall be entitled to all Refunds (and any interest thereon received from the applicable Tax Authority) in respect of Taxes paid with respect to any Tax Return for which it or members of its respective Spinco Group are responsible pursuant to Section 2. Notwithstanding the foregoing, in the event a Party obtains a Refund of Taxes for which it was indemnified by another Party (other than Taxes for which a Spinco is responsible pursuant to Section 2(a)(iii)), the indemnifying Party shall be entitled to such Refund. A Party receiving a Refund to which another Party is entitled pursuant to this Section 5 shall pay the amount to which such other Party is entitled within fifteen Business Days after such Refund is Actually Realized. The Parties shall cooperate with each other in connection with any claim for a Refund in respect of a Tax for which any member of their respective Groups is responsible pursuant to Section 2.

6. **Tax Contests.**

(a) **Notification.** Each Party shall notify the other Parties in writing of any communication with respect to any pending or threatened Proceeding in connection with a Tax Liability (or any issue related thereto) of any Party or member of its Group, for which another Party or member of its Group, may be responsible pursuant to this Agreement within ten (10) Business Days of receipt; provided, however, that in the case of any Distribution-Related Proceeding (no matter which Party is responsible), such notice shall be provided no later than ten (10) Business Days after such Party first receives written notice from the IRS or other Tax Authority of such Distribution-Related Proceeding. The notifying Party shall include with such notification a true, correct and complete copy of any written communication, and an accurate and complete written summary of any oral communication, received by such notifying Party or member of its Group. The failure of one Party to notify the other Parties of such communication in accordance with the immediately preceding sentence shall not relieve such other Party of any liability or obligation that it may have under this Agreement, except to the extent that the failure timely to forward such notification actually prejudices the ability of such other Party to contest such Income Tax Liability or Other Tax Liability or increases the amount of such Income Tax Liability or Other Tax Liability.

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(b) **Representation with Respect to Tax Disputes.** Parent (or such member of the Parent Group as Parent shall designate) shall have the sole right to administer and control and to employ counsel of its choice at its expense in any Proceeding (including any Distribution-Related Proceeding) relating to (i) any consolidated federal Income Tax Returns of the Parent Consolidated Group, (ii) any other Combined Returns and (iii) any Parent Separate Returns. Each Spinco (or such member of its respective Spinco Group as such Spinco shall designate) shall have the sole right to administer and control and to employ counsel of its choice at its expense in any Proceeding (excluding any Distribution-Related Proceeding) relating to its respective Spinco Consolidated Return or Spinco Separate Return.

(c) **Power of Attorney.** Each Spinco (and members of its respective Group) shall execute and deliver to Parent (or such member of the Parent Group as Parent shall designate) any power of attorney or other document requested by Parent (or such designee) in connection with any Proceeding described in the first sentence of Section 6(b).

(d) **Distribution-Related Proceedings.**

(i) In the event of any Distribution-Related Proceeding as a result of which a Spinco could reasonably be expected to become liable for any Tax or Tax-Related Losses (each, a "**Participating Spinco**") and which Parent has the right to administer and control pursuant to Section 6(b) above, (A) Parent shall consult with each Participating Spinco reasonably in advance of taking any significant action in connection with such Proceeding, (B) Parent shall offer each Participating Spinco a reasonable opportunity to comment before submitting any written materials prepared or furnished in connection with such Proceeding, (C) Parent shall defend such Proceeding diligently and in good faith as if it were the only party in interest in connection with such Proceeding, and (D) Parent shall provide each Participating Spinco copies of any written materials relating to such Proceeding received from the relevant Tax Authority. Notwithstanding anything in the preceding sentence to the contrary, the final determination of the positions taken, including with respect to settlement or other disposition, in any Distribution-Related Proceeding shall be made in the sole discretion of Parent and shall be final and not subject to the dispute resolution provisions of Article 9 of the Separation Agreement.

(ii) In the event of any Distribution-Related Proceeding with respect to any Spinco Separate Return, (A) such Spinco shall consult with Parent reasonably in advance of taking any significant action in connection with such Proceeding, (B) such Spinco shall consult with Parent and offer Parent a reasonable opportunity to comment before submitting any written materials prepared or furnished in connection with such Proceeding, (C) such Spinco shall defend such Proceeding diligently and in good faith as if it were the only party in interest in connection with such Proceeding, (D) Parent shall be entitled to participate in such Proceeding and receive copies of any written materials relating to such Proceeding received from the relevant Tax Authority, and (E) such Spinco shall not settle, compromise or abandon any such Proceeding without obtaining the prior written consent of Parent, which consent shall not be unreasonably withheld.

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7. **Apportionment of Tax Attributes; Carrybacks.**

(a) **Apportionment of Tax Attributes.**

(i) If the Parent Consolidated Group has a Tax Attribute, the portion, if any, of such Tax Attribute apportioned to any Spinco or the members of its respective Spinco Consolidated Group and treated as a carryover to the first Post-Distribution Taxable Period of such Spinco (or such member) shall be

determined by Parent in accordance with Treasury Regulation Sections 1.1502-21, 1.1502-21T, 1.1502-22, 1.1502-79 and, if applicable, 1.1502-79A.

(ii) No Tax Attribute with respect to consolidated federal Income Tax of the Parent Consolidated Group, other than those described in Section 7(a)(i), and no Tax Attribute with respect to consolidated, combined or unitary state, local, or foreign Income Tax, in each case, arising in respect of a Combined Return shall be apportioned to any Spinco or any member of its respective Spinco Group, except as Parent (or such member of the Parent Group as Parent shall designate) determines is otherwise required under applicable law.

(iii) Parent (or its designee) shall determine the portion, if any, of any Tax Attribute which must (absent a Final Determination to the contrary) be apportioned to a Spinco or any member of its respective Spinco Group in accordance with this Section 7(a) and applicable law, and the amount of tax basis and earnings and profits to be apportioned to such Spinco or any member of its respective Spinco Group in accordance with applicable law, and shall provide written notice of the calculation thereof to such Spinco as soon as reasonably practicable after the information necessary to make such calculation becomes available to Parent.

(iv) The written notice delivered by Parent pursuant to Section 7(a)(iii) shall be binding on each Spinco Group and shall not be subject to dispute resolution. Except as otherwise required by a change in applicable law or pursuant to a Final Determination, no Spinco shall take any position (whether on a Tax Return or otherwise) that is inconsistent with the information contained in such written notice.

(b) Carrybacks. Except to the extent otherwise consented to by Parent or prohibited by applicable law, each Spinco shall elect to relinquish, waive or otherwise forgo all Carrybacks. In the event that a Spinco (the "Carryback Spinco"), or the appropriate member of its respective Spinco Group, is prohibited by applicable law to relinquish, waive or otherwise forgo a Carryback (or Parent consents to a Carryback), (i) each Party shall cooperate with the Carryback Spinco, at the Carryback Spinco's expense, in seeking from the appropriate Tax Authority such Refund as reasonably would result from such Carryback, and (ii) the Carryback Spinco shall be entitled to any Income Tax Benefit Actually Realized by a member of another Group (including any interest thereon received from such Tax Authority), to the extent that such Refund is directly attributable to such Carryback, within 15 Business Days after such Refund is Actually Realized; provided, however, that the Carryback Spinco shall indemnify and hold the members of the other Party's Group harmless from and against any and all collateral tax consequences resulting from or caused by any such Carryback, including (but not limited to) the loss or postponement of any benefit from the use of tax attributes generated by a member of the other Party's Group or an Affiliate thereof if (x) such tax attributes expire unutilized, but would

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have been utilized but for such Carryback, or (y) the use of such tax attributes is postponed to a later taxable period than the taxable period in which such tax attributes would have been utilized but for such Carryback. If there is a Final Determination that results in any change to or adjustment of an Income Tax Benefit Actually Realized by a member of the other Party's Group that is directly attributable to a Carryback, then the other Party (or its designee) shall make a payment to the Carryback Spinco, or the Carryback Spinco shall make a payment to the other Party (or its designee), as may be necessary to adjust the payments between the Carryback Spinco and the other Party (or its designee) to reflect the payments that would have been made under this Section 7(b) had the adjusted amount of such Income Tax Benefit been taken into account in computing the payments due under this Section 7(b).

## 8. Cooperation and Exchange of Information

(a) Cooperation and Exchange of Information. Each Party, on behalf of itself and the members of its Group, agrees to provide each other Party (or its designee) with such cooperation or information as such other Party (or its designee) reasonably shall request in connection with the determination of any payment or any calculations described in this Agreement, the preparation or filing of any Tax Return or claim for Refund, or the conduct of any Proceeding. Such cooperation and information shall include, without limitation, upon reasonable notice (i) promptly forwarding copies of appropriate notices and forms or other communications (including, without limitation, information document requests, revenue agent's reports and similar reports, notices of proposed adjustments and notices of deficiency) received from or sent to any Tax Authority or any other administrative, judicial or governmental authority, (ii) providing copies of all relevant Tax Returns, together with accompanying schedules and related workpapers, documents relating to rulings or other determinations by any Tax Authority, and such other records concerning the ownership and tax basis of property, or other relevant information, (iii) the provision of such additional information and explanations of documents and information provided under this Agreement (including statements, certificates, forms, returns and schedules delivered by either party) as shall be reasonably requested by any of the other Parties (or their designee), (iv) the execution of any document that may be necessary or reasonably helpful in connection with the filing of a Tax Return, a claim for a Refund, or in connection with any Proceeding, including such waivers, consents or powers of attorney as may be necessary for the other Party to exercise its rights under this Agreement, and (v) the use of the Party's reasonable efforts to obtain any documentation from a governmental authority or a third party that may be necessary or reasonably helpful in connection with any of the foregoing. It is expressly the intention of the Parties to take all actions that shall be necessary to establish Parent as the sole agent for Tax purposes of each member of the Spinco Groups with respect to all Combined Returns. Upon reasonable notice, each Party shall make its, or shall cause the members of its respective Group, as applicable, to make their, employees and facilities available on a mutually convenient basis to provide explanation of any documents or information provided hereunder. Any information obtained under this Section 8 shall be kept confidential, except as otherwise reasonably may be necessary in connection with the filing of Tax Returns or claims for Refund or in conducting any Proceeding.

(b) Retention of Records. The Parties each agree to retain all Tax Returns, related schedules and workpapers, and all material records and other documents as

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required under Section 6001 of the Code and the regulations promulgated thereunder (and any similar provision of state, local, or foreign law) existing on the date hereof or created in respect of (i) any taxable period that ends on or before or includes the Distribution Date or (ii) any taxable period that may be subject to a claim hereunder until the later of (A) the expiration of the statute of limitations (including extensions) for the taxable periods to which such Tax Returns and other documents relate and (B) the Final Determination of any payments that may be required in respect of such taxable periods under this Agreement. From and after the end of the period described in the preceding sentence of this Section 8(b), if a Party or a member of its respective Group wishes to dispose of any such records and documents, then such Party shall provide written notice thereof to the other Parties and shall provide the other Parties the opportunity to take possession of any such records and documents within 90 days after such notice is delivered; provided, however, that if no other Party, within such 90-day period, confirms its intention to take possession of such records and documents, then the Party wishing to destroy or otherwise dispose of such records and documents may do so.

(c) Remedies. Each of the Parties hereby acknowledges and agrees that (i) the failure of any member of its respective Group to comply with the provisions of this Section 8 may result in substantial harm to the other Parties, including the inability to determine or appropriately substantiate a Tax Liability (or a position in respect thereof) for which a Party (or a member of its respective Group) would be responsible under this Agreement or appropriately defend against an adjustment thereto by a Tax Authority, (ii) the remedies available to one Party (the "Injured Party") for the breach by a member of another Party (the "Breaching Party") of its obligations under this Section 8 shall include (without limitation) the indemnification by the Breaching Party of the Injured Party for any Tax Liabilities incurred or any tax benefit lost or postponed by reason of such breach and the forfeiture by the Breaching Party of any related rights to indemnification by the Injured Party.

(d) Reliance. If any member of a Group supplies ("Supplying Party") information to a member of another Group ("Relying Party") in connection with a Tax Liability and an officer of a member of the Relying Party signs a statement or other document under penalties of perjury in reliance upon the accuracy of such information, then upon the written request of the member of the Relying Party identifying the information being so relied upon, the chief financial officer of Supplying Party (or his or her designee) shall certify in writing that to his knowledge (based upon consultation with appropriate employees) the information so supplied is

accurate and complete. Each Party agrees to indemnify and hold harmless each member of the other Groups and its directors, officers and employees from and against any fine, penalty, or other cost or expense of any kind attributable to a member of its respective Group having supplied, pursuant to this Section 8, a member of another Group with inaccurate or incomplete information in connection with a Tax Liability.

9. **Resolution of Disputes.** The provisions of Article 9 of the Separation Agreement (Dispute Resolution) shall apply to any dispute arising in connection with this Agreement; provided, however, that in the case of disputes arising under this Agreement, the relevant Parties shall jointly select the arbitrator, who shall be an attorney or accountant who is generally recognized in the tax community as a qualified and competent tax practitioner with experience in the tax area involved in the issue or issues to be resolved.

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10. **Payments.**

(a) **Method of Payment.** All payments required by this Agreement shall be made by (i) wire transfer to the appropriate bank account as may from time to time be designated by the Parties for such purpose; provided that, on the date of such wire transfer, notice of the transfer is given to the recipient thereof in accordance with Section 11, or (ii) any other method agreed to by the Parties. All payments due under this Agreement shall be deemed to be paid when available funds are actually received by the payee.

(b) **Interest.** Any payment required by this Agreement that is not made on or before the date required hereunder shall bear interest, from and after such date through the date of payment, at the Underpayment Rate.

(c) **Characterization of Payments.** For all Income Tax purposes, the Parties agree to treat, and to cause their respective Affiliates to treat, (i) any payment required by this Agreement or by the Separation Agreement, by (A) Parent to any of the Spinco's as a contribution by Parent to the appropriate Spinco occurring immediately prior to the Distribution of such Spinco, (B) a Spinco to Parent as a distribution by such Spinco occurring immediately prior to the Distribution of such Spinco, and (C) a Spinco to another Spinco as a distribution by the first Spinco to Parent occurring immediately before the Distribution of the first Spinco followed by a contribution by Parent to the recipient Spinco occurring immediately before the Distribution of the second Spinco; and (ii) any payment of interest or non-federal Income Taxes by or to a Tax Authority, as taxable or deductible, as the case may be, to the Party entitled under this Agreement to retain such payment or required under this Agreement to make such payment, in either case, except as otherwise mandated by applicable law or a Final Determination; provided that in the event it is determined (A) pursuant to applicable law that it is more likely than not, or (B) pursuant to a Final Determination, that any such treatment is not permissible (or that an Indemnified Party nevertheless suffers a Tax detriment as a result of such payment), the payment in question shall be adjusted to place the Indemnified Party in the same after-tax position it would have enjoyed absent such applicable law or Final Determination.

11. **Compensatory Equity Interests.**

(a) **Allocation of Deductions.** To the extent permitted by applicable law, Income Tax deductions arising by reason of exercises of Options to acquire Parent or Spinco stock, vesting of "restricted" Parent stock or Spinco stock, or settlement of restricted stock units, in each case, following the Distributions, with respect to Parent stock or Spinco stock (such Options, restricted stock and restricted stock units, collectively, "Compensatory Equity Interests") held by any Person shall be claimed (i) in the case of an active employee, solely by the Party that employs such Person at the time of exercise, vesting, or settlement, as applicable, and (ii) in the case of a former employee, solely by the Party that last employed such Person (the Party described in clause (i) or (ii), the "Employing Party").

(b) **Withholding and Reporting.** The Employing Party (or any of its Affiliates) that is entitled to claim the Tax deductions described in 11(a) with respect to Compensatory Equity Interests held by a current or former employee shall be responsible for all applicable Taxes (including, but not limited to, withholding and excise taxes) and shall satisfy, or

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shall cause to be satisfied, all applicable Tax reporting obligations with respect to such Compensatory Equity Interests; provided, that in the event Compensatory Equity Interests are settled by the issuing corporation on a "net basis" that takes into account withholding or other Taxes for which the holder of the Compensatory Equity Interest is responsible, the issuing corporation shall promptly remit to the Employing Party an amount of cash equal to the fair market value of the shares withheld by the issuing corporation in respect of such withholding or other Taxes.

12. **Notices.** Notices, requests, permissions, waivers, and other communications hereunder shall be in writing and shall be deemed to have been duly given upon (a) a transmitter's confirmation of a receipt of a facsimile transmission (but only if followed by confirmed delivery of a standard overnight courier the following Business Day or if delivered by hand the following Business Day), or (b) confirmed delivery of a standard overnight courier or delivered by hand, to the parties at the following addresses (or at such other addresses for a party as shall be specified by like notice):

If to Parent, to:

IAC/InterActiveCorp  
555 West 18th Street  
New York, NY 10011  
Attention: General Counsel  
Telecopier: (212) 632-9642

with a copy to:

Wachtell, Lipton, Rosen & Katz  
51 West 52nd Street  
New York, NY 10019  
Attention: Pamela S. Seymon, Esq.  
Telecopier: (212) 403-2000

If to TM Spinco:

Ticketmaster  
8800 Sunset Boulevard  
West Hollywood, California 90069  
Attention: General Counsel  
Telecopier: (310) -

with a copy to:

[ ]

If to Interval Spinco:

Interval Leisure Group, Inc.  
6262 Sunset Drive  
Miami, Florida 33143  
Attention: General Counsel  
Telecopier: (305) -

with a copy to:

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If to HSN Spinco:

1 HSN Drive  
St. Petersburg, Florida 33729  
Attention: General Counsel  
Telecopier: (727) -

with a copy to:

[ ]

If to Tree Spinco:

11115 Rushmore Drive  
Charlotte, North Carolina 28277  
Attention: General Counsel  
Telecopier: (704) -

with a copy to:

[ ]

Such names and addresses may be changed by notice given in accordance with this Section 12.

13. **Designation of Affiliate.** Each of the Parties may assign any of its rights or obligations under this Agreement to any member of its respective Group as it shall designate; provided, however, that no such assignment shall relieve the Party making the assignment of any obligation hereunder, including any obligation to make a payment hereunder to another Party, to the extent such designee fails to make such payment.

14. **Miscellaneous.** Except to the extent otherwise provided in this Agreement, this Agreement shall be subject to the provisions of Article 13 (Miscellaneous) of the Separation Agreement to the extent set forth therein.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed on its behalf by its officers thereunto duly authorized, all as of the day and year first written above.

IAC/INTERACTIVECORP

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

TICKETMASTER

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

INTERVAL LEISURE GROUP, INC.

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

Title:

HSN, INC.

By:

\_\_\_\_\_  
Name:

Title:

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TREE.COM, INC.

By:

\_\_\_\_\_  
Name:

Title:

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**FORM OF  
TRANSITION SERVICES AGREEMENT**

by and among

IAC/INTERACTIVECORP,

HSN, Inc.,

INTERVAL LEISURE GROUP, INC.

TICKETMASTER

and

TREE.COM, INC.

**TRANSITION SERVICES AGREEMENT**

This TRANSITION SERVICES AGREEMENT, dated as of [•], 2008 (this “Services Agreement”), is entered into by and among IAC/InterActiveCorp, a Delaware corporation (“IAC” or “New IAC”), HSN, Inc., a Delaware corporation and wholly owned subsidiary of IAC (“HSNSpinco” or “HSN”), Interval Leisure Group, Inc., a Delaware corporation and wholly owned subsidiary of IAC (“Interval Spinco” or “Interval”), Ticketmaster, a Delaware corporation and wholly owned subsidiary of IAC (“TMSpinco” or “TM”), and Tree.com, Inc., a Delaware corporation and wholly owned subsidiary of IAC (“Tree Spinco” or “LT” and, together with HSNSpinco, Interval Spinco and TMSpinco, the “Spincos” and, the Spinco together with IAC, the “Parties” and each a “Party”).

WHEREAS, the Board of Directors of IAC has determined it is appropriate and desirable to separate IAC and the Spinco into five publicly-traded companies all as set forth in that certain Separation and Distribution Agreement, dated as of even date herewith, by and among the Parties (the “Separation Agreement”);

WHEREAS, IAC and the Spinco expect to enter into the Separation Agreement on the date hereof, which sets forth, among other things, the assets, liabilities, rights and obligations of each of the Parties for purposes of effecting the separation of IAC and the Spinco; and

WHEREAS, in connection with such separation, (a) each of the Spinco desires to procure certain services from IAC and/or one or more of the other Spinco, and IAC and such other Spinco each are willing to provide such services, during a transition period commencing on the applicable Effective Date (as defined in Section 7.01), on the terms and conditions set forth in this Services Agreement; and (b) IAC desires to procure certain services from the Spinco, and each of the Spinco is willing to provide such services to IAC, during a transition period commencing on the applicable Effective Date, on the terms and conditions set forth in this Services Agreement.

NOW THEREFORE, in consideration of the mutual agreements, covenants and other provisions set forth in this Services Agreement, the Parties hereby agree as follows:

**ARTICLE I**

Definitions

1.01. All terms used herein and not defined herein shall have the meanings assigned to them in the Separation Agreement.

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**ARTICLE II**

Agreement To Provide and Accept Services

2.01. Provision of Services.

(a) On the terms and subject to the conditions contained herein, IAC agrees with each Spinco, as applicable, that it shall provide, or shall cause its Subsidiaries and Affiliates and their respective employees designated by IAC (such designated Subsidiaries, Affiliates and employees, together with IAC, being herein collectively referred to as the “IAC Service Providers”) to provide, to such Spinco the services (“IAC Services”) listed on the Schedule of Services attached hereto (the “Services Schedule”) as being performed by IAC or a member of its Corresponding Group identified in the column of the Services Schedule titled “Spin Party” and being received by such Spinco. Subject to Section 3.01, any decisions as to which of the IAC Service Providers (including the decisions to use third parties) shall provide the IAC Services shall be made by IAC in its sole discretion, except to the extent specified in the Services Schedule. Each IAC Service shall be provided in exchange for the consideration set forth with respect to such IAC Service on the Services Schedule or as IAC and such Spinco may otherwise agree in writing. Each IAC Service shall be provided and accepted in accordance with the terms, limitations and conditions set forth herein and on the Services Schedule.

(b) On the terms and subject to the conditions contained herein, TMSpinco agrees with each other Spinco and IAC, as applicable, that it shall provide, or shall cause its Subsidiaries and Affiliates and their respective employees designated by it (such designated Subsidiaries, Affiliates and employees, together with TMSpinco, being herein collectively referred to as the “Ticketmaster Service Providers”) to provide, to such other Spinco or IAC, as applicable, the services (“Ticketmaster Services”) listed on the Services Schedule as being performed by TM or a or a member of its Corresponding Group identified in the column of the Services Schedule titled “Spin Party” and being received by such other Spinco or IAC, as applicable. Subject to Section 3.01, any decisions as to which of the Ticketmaster Service Providers (including the decisions to use third parties) shall provide the Ticketmaster Services shall be made by TMSpinco in its sole discretion, except to the extent specified in the Services Schedule. Each Ticketmaster Service shall be provided in exchange for the consideration set forth with respect to such Service on the Services Schedule or as TMSpinco and the applicable recipient of the Ticketmaster Services may otherwise agree in writing. Each Ticketmaster Service shall be provided and accepted in accordance with the terms, limitations and conditions set forth herein and on the Services Schedule.

(c) On the terms and subject to the conditions contained herein, HSNSpinco agrees with each other Spinco and IAC, as applicable, that it shall provide, or shall cause its Subsidiaries and Affiliates and their respective employees designated by it (such designated Subsidiaries, Affiliates and employees, together with HSNSpinco, being herein collectively referred to as the “HSN Service Providers”) to provide, to such other Spinco or IAC, as applicable, the services (“HSN Services”) listed on the Services

Schedule as being performed by HSN or a member of its Corresponding Group identified in the column of the Services Schedule titled "Spin Party" and being received by such other Spinco or IAC, as applicable. Subject to

Section 3.01, any decisions as to which of the HSN Service Providers (including the decisions to use third parties) shall provide the HSN Services shall be made by HSNSpinco in its sole discretion, except to the extent specified in the Services Schedule. Each HSN Service shall be provided in exchange for the consideration set forth with respect to such Service on the Services Schedule or as HSNSpinco and the applicable recipient of the HSN Services may otherwise agree in writing. Each HSN Service shall be provided and accepted in accordance with the terms, limitations and conditions set forth herein and on the Services Schedule.

(d) On the terms and subject to the conditions contained herein, Interval Spinco agrees with each other Spinco and IAC, as applicable, that it shall provide, or shall cause its Subsidiaries and Affiliates and their respective employees designated by it (such designated Subsidiaries, Affiliates and employees, together with Interval Spinco, being herein collectively referred to as the "Interval Service Providers") to provide, to such other Spinco or IAC, as applicable, the services ("Interval Services") listed on the attached Services Schedule as being performed by Interval or a member of its Corresponding Group identified in the column of the Services Schedule titled "Spin Party" and being received by such other Spinco or IAC, as applicable. Subject to Section 3.01, any decisions as to which of the Interval Service Providers (including the decisions to use third parties) shall provide the Interval Services shall be made by Interval Spinco in its sole discretion, except to the extent specified in the Services Schedule. Each Interval Service shall be provided in exchange for the consideration set forth with respect to such Service on the Services Schedule or as Interval Spinco and the applicable recipient of the Interval Services may otherwise agree in writing. Each Interval Service shall be provided and accepted in accordance with the terms, limitations and conditions set forth herein and on the Services Schedule.

(e) On the terms and subject to the conditions contained herein, Tree Spinco agrees with each other Spinco and IAC, as applicable, that it shall provide, or shall cause its Subsidiaries and Affiliates and their respective employees designated by it (such designated Subsidiaries, Affiliates and employees, together with Tree Spinco, being herein collectively referred to as the "Tree Service Providers" and together with the IAC Service Providers, the Ticketmaster Service Providers, the HSN Service Providers and the Interval Service Providers, being herein collectively referred to as the "Service Providers") to provide, to such other Spinco or IAC, as applicable, the services ("Tree Services" and together with the IAC Services, the Ticketmaster Services, the HSN Services and the Interval Services, being herein collectively referred to as the "Services") listed on the Services Schedule as being performed by LT or a member of its Corresponding Group identified in the column of the Services Schedule titled "Spin Party" and being received by such other Spinco or IAC, as applicable. Subject to Section 3.01, any decisions as to which of the Tree Service Providers (including the decisions to use third parties) shall provide the Tree Services shall be made by Tree Spinco in its sole discretion, except to the extent specified in the Services Schedule. Each Tree Service shall be provided in exchange for the consideration set forth with respect to such Service on the Services Schedule or as Tree Spinco and the applicable recipient of the Tree Services may otherwise agree in writing. Each Tree Service shall be provided and accepted in accordance with the terms, limitations and conditions set forth herein and on the Services Schedule.

(f) As used in this Services Agreement, the term "Receiving Party" shall mean the

Party receiving (or the Party another member of whose Corresponding Group is receiving) the applicable Services from a Service Provider.

2.02. Books and Records; Availability of Information. Each Party shall create and maintain accurate books and records in connection with the provision of the Services performed or caused to be performed by it and, upon reasonable notice from a Receiving Party, shall make available for inspection and copying by such Receiving Party's agents such books and records to the extent relating to the Services provided to such Receiving Party hereunder during reasonable business hours with such inspection occurring no more than one (1) time during the term in which the Service Provider has provided the applicable Service to the Receiving Party. Moreover, such inspection shall be conducted by the Receiving Party or its agents in a manner that will not unreasonably interfere with the normal business operations of the Service Provider. Each Receiving Party shall make available on a timely basis to the Service Providers all information and materials reasonably requested by such Service Providers to enable them to provide the applicable Services. Each Receiving Party shall provide to the Service Providers reasonable access to such Receiving Party's premises to the extent necessary for the purpose of providing the applicable Services.

### ARTICLE III

#### Services; Payment; Independent Contractors

3.01. Services To Be Provided. (a) Unless otherwise agreed between the applicable Party providing Services hereunder and the Receiving Party (including to the extent specified in the applicable entry on the Services Schedule), (i) the Service Providers shall be required to perform the Services only in a manner, scope, nature and quality as provided by or within IAC that is similar in all material respects to the manner in which such Services were performed immediately prior to the applicable Effective Date, and (ii) the Services shall be used for substantially the same purposes and in substantially the same manner (including as to volume, amount, level or frequency, as applicable) as the Services have been used immediately prior to the applicable Effective Date; provided, however, that the applicable entry on the Services Schedule shall control the scope of the Service to be performed (to the extent provided therein), unless otherwise agreed in writing. Each Party and the Service Providers shall act under this Services Agreement solely as an independent contractor and not as an agent or employee of any other Party or any of such Party's Affiliates. As an independent contractor, all overhead and personnel necessary to the Services required of the Service Providers hereunder shall be the Service Provider's sole responsibility and shall be at the Service Provider's sole cost and expense. No Service Provider shall have the authority to bind the Receiving Party by contract or otherwise.

(b) The provision of Services by the Service Providers shall be subject to Article V hereof.

(c) Each Party agrees with each other Party providing Services to it hereunder to use its reasonable efforts to reduce or eliminate its dependency on such Services as soon as is

reasonably practicable; provided that a breach of this Section 3.01(c) shall not affect a Service Provider's obligation to provide any Service through the term applicable to such Service.

3.02. Each Receiving Party and Party providing Services to it hereunder will use good-faith efforts to reasonably cooperate with each other in all matters relating to the provision and receipt of Services. Such cooperation shall include obtaining all consents, licenses or approvals necessary to permit each such Party to perform its obligations to such Receiving Party hereunder; provided, however, under no circumstances shall any Service Provider be required to make any payments to any third party in respect of any such consents, licenses or approvals nor shall any Service Provider be required to make any alternative arrangements in the event that any such consents, licenses or approvals are not obtained.

### 3.03. Additional Services.

(a) From time to time during the term applicable to any Service being provided by a Service Provider, each Party may request any of the other Parties (i) to provide additional or different services which such other Party is not expressly obligated to provide under this Services Agreement if such services are of the type and scope provided by such providing Party within IAC during fiscal year 2008 or (ii) expand the scope of any Service (such additional or expanded services, the "Additional Services"). The Party receiving such request shall consider such request in good faith and shall use commercially reasonable efforts to provide such Additional Service; provided, no Party shall be obligated to provide any Additional Services if it does not, in its reasonable judgment, have adequate resources to provide such Additional Services or if the provision of such Additional Services would interfere with the operation of its business. The Party receiving the request for Additional Services shall notify the requesting Party within fifteen (15) days as to whether it will or will not provide the Additional Services.

(b) If a Party agrees to provide Additional Services pursuant to Section 3.03(a), then a representative of each applicable Party shall in good faith negotiate the terms of a supplement to the Services Schedule which will describe in detail the service, project scope, term, schedule impact, price and payment terms to be charged for the Additional Services. Once agreed to in writing, the supplement to the Services Schedule shall be deemed part of this Services Agreement as of such date and the Additional Services shall be deemed "Services" provided by such Service Provider to such Receiving Party hereunder, in each case subject to the terms and conditions of this Agreement.

3.04. Payments. Except as set forth on the Services Schedule, statements will be delivered to each applicable Receiving Party within fifteen (15) days after the end of each month by the Service Providers designated by each providing Party for Services provided by such Service Provider to the Receiving Party during the preceding month, and each such statement shall set forth a brief description of such Services, the amounts charged therefor, and, except as the applicable providing Party and Receiving Party may agree or as set forth on the Services Schedule, such amounts shall be due and payable by the Receiving Party within thirty (30) days after the date of such statement. Statements not paid within such 30-day period shall be subject to late charges, calculated at an interest rate per annum equal to the Prime Rate plus 2% (or the maximum legal rate, whichever is lower), and calculated for the actual number of days elapsed,

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accrued from the date on which such payment was due up to the date of the actual receipt of payment. Payments shall be made by wire transfer to an account designated in writing from time to time by the applicable Service Provider.

3.05. Disclaimer of Warranty. EXCEPT AS EXPRESSLY SET FORTH IN THIS SERVICES AGREEMENT, THE SERVICES TO BE PURCHASED UNDER THIS SERVICES AGREEMENT ARE FURNISHED AS IS, WHERE IS, WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. In the event that the provision of any Service for the account of a Receiving Party by a Service Provider conflicts with such Service Provider's provision of such Service for its own account or the account of other Receiving Parties, priority for the provision of such Service shall be allocated in an equitable manner on an aggregate basis, and in a manner consistent with the Receiving Party's level of use of such Service during fiscal year 2008 up to the applicable Effective Date (or as described in the applicable entry on the Services Schedule).

3.06. Taxes. In the event that any Tax is properly chargeable on the provision of the Services as indicated in the applicable entry on the Services Schedule, the Receiving Party shall be responsible for and shall pay to the applicable Service Provider the amount of any such Tax in addition to and at the same time as the applicable Service fees. All Service fees and other consideration will be paid free and clear of and without withholding or deduction for or on account of any Tax, except as may be required by law.

3.07. Use of Services. Each party, in its capacity as a Receiving Party agrees with each applicable providing Party that it shall not, and shall cause its Affiliates not to, resell any Services to any person whatsoever or permit the use of the Services by any person other than in connection with the conduct of such Receiving Party's operations as conducted immediately prior to the applicable Effective Date.

## ARTICLE IV

### Term of Services

4.01. Subject to Section 7.01, the provision of each Service shall commence on the date hereof and shall terminate no later than twelve (12) months after the date hereof or as of the date indicated for each such Service in the applicable entry on the Services Schedule; provided, however, that subject to the applicable entry on the Services Schedule, any Service may be cancelled or reduced in amount or any portion thereof by the Receiving Party upon ninety (90) days written notice thereof (or such other notice period if one is set forth for such Service in the applicable entry on the Services Schedule) to the applicable Service Provider subject to the requirement that such Receiving Party pay to the applicable Service Provider the actual out-of-pocket costs incurred by such Service Provider, as well as the actual incremental internal costs incurred by such Service Provider, in each case directly resulting from such cancellation (including employee severance and other termination costs), which out-of-pocket and internal costs shall be set forth in a written statement provided by such Service Provider to the Receiving

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Party; provided, further, that such costs shall not exceed amounts payable hereunder in respect of the applicable Service for the ninety (90) days prior to such termination. The forgoing notwithstanding and subject to Section 7.02, (i) a Service Provider may immediately terminate any individual Service provided to a Receiving Party in the event that the Receiving Party fails to make payments for such Service under Section 3.02 and has not cured such failure within thirty (30) days of written notice of such failure from the applicable Service Provider, and (ii) upon ninety (90) days written notice, the Service Provider may terminate any Service provided to a Receiving Party at such time as the Service Provider no longer provides the same Service to itself for its own account.

4.02. In the event a Receiving Party requests an extension of the term applicable to the provision of Services, such request shall be considered in good faith by the applicable Service Provider. Any terms, conditions or costs or fees to be paid by the Receiving Party for Services provided during an extended term will be on terms mutually acceptable to such Service Provider and Receiving Party. For the avoidance of doubt, under no circumstances shall a Service Provider be required to extend the term of provision of any Service if (i) the Service Provider does not, in its reasonable judgment, have adequate resources to continue providing such Services, (ii) the extension of the term would interfere with the operation of the Service Provider's business or (iii) the extension would require capital expenditure on the part of the Service Provider or otherwise require the Service Provider to renew or extend any Contract with any third party.

## ARTICLE V

### Force Majeure

5.01. The Service Providers shall not be liable for any expense, loss or damage whatsoever arising out of any interruption of Service or delay or failure to perform under this Services Agreement that is due to acts of God, acts of a public enemy, acts of terrorism, acts of a nation or any state, territory, province or other political division thereof, changes in applicable law, fires, hurricanes, floods, epidemics, riots, theft, quarantine restrictions, freight embargoes or other similar causes beyond the reasonable control of the Service Providers. In any such event, the applicable Service Provider's obligations hereunder shall be postponed for such time as its performance is suspended or delayed on account thereof, provided that if the force majeure event continues for more than forty-five (45) days, the Service Provider may cancel unperformed Services upon written notice to the Receiving Party. Each Service Provider will promptly notify the recipient of the Service, either orally or in writing, upon learning of the occurrence



of such event of force majeure. Upon the cessation of the force majeure event, such Service Provider will use commercially reasonable efforts to resume, or to cause any other relevant Service Provider to resume, its performance with the least practicable delay (provided that, at the election of the applicable Receiving Party, the applicable term for such suspended Service shall be extended by the length of the force majeure event unless such event has continued for more than 45 days in which case the Service may be cancelled by the Service Provider).

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## ARTICLE VI

### Liabilities

6.01. Consequential and Other Damages. None of the Service Providers shall be liable to any Receiving Party with respect to this Services Agreement, whether in contract, tort (including negligence and strict liability) or otherwise, for any special, indirect, incidental or consequential damages whatsoever (except, in each case, to the extent any amount is paid to third parties by such Receiving Party or its Affiliates) which in any way arise out of, relate to or are a consequence of, the performance or nonperformance by it hereunder or the provision of, or failure to provide, any Service hereunder, including with respect to loss of profits, business interruptions or claims of customers.

6.02. Limitation of Liability. Subject to Section 6.03 hereof, the liability of any Service Provider with respect to this Services Agreement to any Receiving Party or in respect of any Services provided to such Receiving Party or any act or failure to act in connection herewith (including, but not limited to, the performance or breach hereof), or from the sale, delivery, provision or use of any Service provided under or covered by this Services Agreement, whether in contract, tort (including negligence and strict liability) or otherwise, shall be limited to actions or omissions resulting from intentional breach of this Services Agreement or gross negligence, and, in any event, such liability shall not exceed the fees previously paid to such Service Provider by such Receiving Party during the term of the applicable Service giving rise thereto.

6.03. Obligation to Re-perform. In the event of any breach of this Services Agreement by any Service Provider resulting from any error or defect in the performance of any Service (which breach such Service Provider can reasonably be expected to cure by re-performance in a commercially reasonable manner), the Service Provider shall use its reasonable commercial efforts to correct in all material respects such error, defect or breach or re-perform in all material respects such Service upon receipt of the written request of the applicable Receiving Party.

6.04. Indemnity. Except as otherwise provided in this Service Agreement (including the limitation of liability provisions in this Article VI), each Party shall indemnify, defend and hold harmless each other Party from and against any Liability arising out of the intentional breach hereunder or gross negligence of the Indemnifying Party or its Affiliates, employees, agents, or contractors (including with respect to the performance or nonperformance of any Service hereunder). The procedures set forth in Sections 6.04 and 6.05 of the Separation Agreement shall apply to any claim for indemnification hereunder.

## ARTICLE VII

### Effectiveness; Certain Deemed References; Termination

7.01. Effectiveness; Certain Substitutions. The provision of Services hereunder to any Spinco by each other applicable Party and to each other applicable Party by such Spinco shall commence as of the Distribution Date for such Spinco (the time of commencement of the provision of such Services being referred to as the "applicable Effective Date"); provided, that in

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the event Services are contemplated to be provided hereunder to such Spinco by another Spinco (a "Later-Spun Spinco") the spinoff of which shall not have been effected prior to or substantially simultaneously with the spinoff of such first-mentioned Spinco, references herein and in the Services Schedule to such Later-Spun Spinco in its capacity as Service Provider to such first-mentioned Spinco shall be deemed references to IAC until the Distribution Date for such Later-Spun Spinco; and, provided, further, that in the event Services are contemplated to be provided hereunder by such first-mentioned Spinco to any Later-Spun Spinco, to the extent requested in writing by IAC (a) references herein and in the Services Schedule to such Later-Spun Spinco in its capacity as Receiving Party of Services from such Spinco shall be deemed references to IAC until the Distribution Date for such Later-Spun Spinco or (b) the provision of such Service shall be suspended until the Distribution Date for such Later-Spun Spinco (it being understood that any such suspension shall not increase the term during which the Service Provider would otherwise have been required to provide such Service).

7.02. Termination. Notwithstanding anything herein to the contrary, with respect to each pair of Parties (i.e., with respect to IAC and TMSpinco; IAC and HSNSpinco; IAC and Interval Spinco; IAC and Tree Spinco; TMSpinco and HSN Spinco; TMSpinco and Interval Spinco; TMSpinco and Tree Spinco; HSNSpinco and Interval Spinco; HSNSpinco and Tree Spinco; and Interval Spinco and Tree Spinco) the rights and obligations of each such Party in respect of such other Party under this Services Agreement shall terminate, and the obligation of the applicable Service Provider to provide or cause to be provided any applicable Service shall cease, on the earliest to occur of (i) the last date indicated for the termination of any Service provided by one such Party to the other such Party on the Services Schedule, as the case may be, (ii) the date on which the provision of all Services by either such Party to the other such Party has been cancelled pursuant to Article IV or Article V hereof or (iii) the date on which this Services Agreement, to the extent of the rights and obligations of such pair of Parties to each other, is terminated by either such Party, as the case may be, in accordance with the terms of Section 7.03 hereof; provided that, in each case, no such termination shall relieve any Party of any liability for any breach of any provision of this Services Agreement prior to the date of such termination.

7.03. Breach of Services Agreement; Dispute Resolution. Subject to Article VI hereof, and without limiting a Party's obligations under Section 4.01, if a Party shall cause or suffer to exist any material breach of any of its obligations to any other Party (the "Nonbreaching Party") under this Services Agreement, including any failure to make a payment within thirty (30) days after receipt of the statement describing the Services provided for pursuant to Section 3.04 with respect to more than one Service provided hereunder, and such breaching Party does not cure such default in all material respects within thirty (30) days after receiving written notice thereof from the Nonbreaching Party, the Nonbreaching Party shall have the right to terminate this Services Agreement to the extent of the rights and obligations of such Nonbreaching Party and breaching Party to each other hereunder immediately thereafter. In the event a dispute arises between two or more Parties regarding the terms of this Services Agreement, such dispute shall be governed by Article IX of the Separation Agreement.

7.03. Sums Due. In addition to any other payments required pursuant to this Services Agreement, in the event of a termination of this Services Agreement with respect to the rights and obligations of a Service Provider and a Receiving Party to each other, such Service Provider

shall be entitled to the immediate payment of, and such Receiving Party shall within three (3) Business Days, pay to such Service Provider, all accrued amounts for Services, Taxes and other amounts due from such Receiving Party to such Service Provider under this Services Agreement as of the date of termination.

7.04. Effect of Termination. Section 2.02 hereof and Articles V, VI, VII and VIII hereof shall survive any termination or partial termination of this Services Agreement.

**ARTICLE VIII**

Miscellaneous

8.01. Incorporation of Separation Agreement Provisions. The provisions of Article XIII of the Separation Agreement are hereby incorporated herein by reference, and unless otherwise expressly specified herein, such provisions shall apply as if fully set forth herein.

8.02. Ownership of Work Product. Subject to the Separation Agreement, (i) each Service Provider acknowledges and agrees that it will acquire no right, title or interest (including any license rights or rights of use) to any work product resulting from the provision of Services hereunder for the Receiving Party's exclusive use and such work product shall remain the exclusive property of the Receiving Party and (ii) each Receiving Party acknowledges and agrees that it will acquire no right, title or interest (other than a non-exclusive, worldwide right of use) to any work product resulting from the provision of Services hereunder that is not for the Receiving Party's exclusive use and such work product shall remain the exclusive property, subject to license, of the Service Provider.

IN WITNESS WHEREOF, the Parties have caused this Services Agreement to be executed by their duly authorized representatives.

IAC/InterActiveCorp,  
a Delaware corporation

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

HSN, Inc.,  
a Delaware corporation

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

Interval Leisure Group, Inc.,  
a Delaware corporation

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

Ticketmaster,  
a Delaware corporation

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

Tree.com, Inc.,  
a Delaware corporation

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

Schedule of Services

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**FORM OF**  
**EMPLOYEE MATTERS AGREEMENT**  
**BY AND AMONG**  
**IAC/INTERACTIVECORP**  
**TICKETMASTER,**  
**INTERVAL LEISURE GROUP, INC.,**  
**HSN, INC.,**  
**AND**  
**TREE.COM, INC.**  
**Dated as of [    ], 2008**

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This Employee Matters Agreement (this “Agreement”), dated as of [ ], 2008, with effect as of the Effective Time, is entered into by and among IAC/InterActiveCorp, a Delaware corporation (“IAC”), Ticketmaster, a Delaware corporation and a wholly owned subsidiary of IAC (“TM”), Interval Leisure Group, Inc., a Delaware corporation and a wholly owned subsidiary of IAC (“Interval”), HSN, Inc., a Delaware corporation and a wholly owned subsidiary of IAC (“HSN”) and Tree.com, Inc., a Delaware corporation and a wholly owned subsidiary of IAC (“Tree,” together with TM, Interval, HSN and Tree, the “SpinCos,” the SpinCos and IAC, collectively, the “Parties”).

#### **RECITALS:**

WHEREAS, IAC, TM, Interval, HSN and Tree have entered into a Separation Agreement pursuant to which the Parties have set out the terms on which, and the conditions subject to which, they wish to implement the Separation (as defined in the Separation Agreement) (such agreement, as amended, restated or modified from time to time, the “Separation Agreement”).

WHEREAS, in connection therewith, IAC, TM, Interval, HSN and Tree have agreed to enter into this Agreement to allocate between them assets, liabilities and responsibilities with respect to certain employee compensation, pension and benefit plans, programs and arrangements and certain employment matters.

NOW THEREFORE, in consideration of the mutual agreements, covenants and other provisions set forth in this Agreement, the Parties hereby agree as follows:

#### **ARTICLE I DEFINITIONS**

Unless otherwise defined in this Agreement, capitalized words and expressions and variations thereof used in this Agreement or in its Appendices have the meanings set forth below. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Separation Agreement.

“Adjustment Ratio” means (a) the IAC Stock Value divided by (b) the sum of (i) 0.5 of the IAC Post-Separation Stock Value plus (ii) 0.2 of the Ticketmaster Stock Value (or if IAC does not distribute shares of TM Common Stock on the Distribution Date, zero) plus (iii) 0.2 of the Interval Stock Value (or if IAC does not distribute shares of Interval Common Stock on the Distribution Date, zero) plus (iv) 0.2 of the HSN Stock Value (or if IAC does not distribute shares of HSN Common Stock on the Distribution Date, zero) plus (v) 0.03333 of the Tree Stock Value (or if IAC does not distribute shares of Tree Common Stock on the Distribution Date, zero).

“Active HSN Participants” has the meaning set forth in Section 5.5(c).

“Affiliate” has the meaning given that term in the Separation Agreement.

“Agreement” means this Employee Matters Agreement, including all the Schedules hereto.

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“Ancillary Agreements” has the meaning given that term in the Separation Agreement.

“Approved Leave of Absence” means an absence from active service (a) due to an individual’s inability to perform his or her regular job duties by reason of illness or injury and resulting in eligibility to receive benefits pursuant to the terms of the IAC Short-Term Disability Plan or the IAC Long-Term Disability Plan, or (b) pursuant to an approved leave policy with a guaranteed right of reinstatement.

“ASO Contract” has the meaning set forth in Section 4.4(a).

“Auditing Party” has the meaning set forth in Section 6.4(b).

“Award” (a) when immediately preceded by “IAC,” means IAC Restricted Stock and IAC Restricted Stock Units, (b) when immediately preceded by “TM,” means TM Restricted Stock and TM Restricted Stock Units, (c) when immediately preceded by “Interval,” means Interval Restricted Stock and Interval Restricted Stock Units, (d) when immediately preceded by “HSN,” means HSN Restricted Stock and HSN Restricted Stock Units and (e) when immediately preceded by Tree means Tree Restricted Stock and Tree Restricted Stock Units.

“Benefit Plan” means, with respect to an entity or any of its Subsidiaries, (a) each “employee welfare benefit plan” (as defined in Section 3(1) of ERISA) and all other employee benefits arrangements, policies or payroll practices (including, without limitation, severance pay, sick leave, vacation pay, salary continuation, disability, retirement, deferred compensation, bonus, stock option or other equity-based compensation, hospitalization, medical insurance or life insurance) sponsored or maintained by such entity or by any of its Subsidiaries (or to which such entity or any of its Subsidiaries contributes or is required to contribute) and (b) all “employee pension benefit plans” (as defined in Section 3(2) of ERISA), occupational pension plan or arrangement or other pension arrangements sponsored, maintained or contributed to by such entity or any of its Subsidiaries (or to which such entity or any of its Subsidiaries contributes or is required to contribute). For the avoidance of doubt, “Benefit Plans” includes Health and Welfare Plans. When immediately preceded by “IAC,” Benefit Plan means any Benefit Plan sponsored, maintained or contributed to by IAC or any IAC Entity. When immediately preceded by “TM,” Benefit Plan means any Benefit Plan sponsored, maintained or contributed to by TM or any TM Entity. When immediately preceded by “Interval,” Benefit Plan means any Benefit Plan sponsored, maintained or contributed to by Interval or any Interval Entity. When immediately preceded by “HSN,” Benefit Plan means any Benefit Plan sponsored, maintained or contributed to by HSN or any HSN Entity. When immediately preceded by “Tree,” Benefit Plan means any Benefit Plan sponsored, maintained or contributed to by Tree or any Tree Entity.

“Cliff Vest” with respect to any Award means the lump-sum vesting of 100% of such Award following the passage of a multi-year period after the date of grant. The terms “Cliff Vesting” and “Cliff Vested” shall have correlative meanings.

“Close of the Distribution Date” means 11:59:59 P.M., Eastern Standard Time or Eastern Daylight Time (whichever shall then be in effect), on the Distribution Date.

“COBRA” means the continuation coverage requirements for “group health plans” under Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, and as codified in Code § 4980B and ERISA §§ 601 through 608.

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“Code” means the Internal Revenue Code of 1986, as amended, or any successor federal income tax law. Reference to a specific Code provision also includes any proposed, temporary or final regulation in force under that provision.

“Committee” has the meaning set forth in Section 5.3(a).

“Distribution Date” means the first date on which one or more of the Distributions (as defined in the Separation Agreement) occurs.

“Effective Time Year” means the calendar year during which the Effective Time occurs.

“Effective Time” has the meaning given that term in the Separation Agreement.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended. Reference to a specific provision of ERISA also includes any proposed, temporary or final regulation in force under that provision.

“FICA” has the meaning set forth in Section 5.3(g)(ii)(A).

“FICA Amount” has the meaning set forth in Section 5.3(g)(ii)(A).

“Former HSN Employee” means any individual who as of the Effective Time is a former employee of the IAC Group, the TM Group, the Interval Group, the HSN Group or the Tree Group, and whose last employment with any such group, was with an HSN Entity.

“Former IAC Employee” means any individual who as of the Effective Time is a former employee of the IAC Group, the TM Group, the Interval Group, the HSN Group or the Tree Group, and whose last employment with any such group, was with an IAC Entity.

“Former Interval Employee” means any individual who as of the Effective Time is a former employee of the IAC Group, the TM Group, the Interval Group, the HSN Group or the Tree Group, and whose last employment with any such group, was with an Interval Entity.

“Former SpinCo Employee” means a Former TM Employee, Former Interval Employee, Former HSN Employee and/or Former Tree Employee as the context requires.

“Former TM Employee” means any individual who as of the Effective Time is a former employee of the IAC Group, the TM Group, the Interval Group, the HSN Group or the Tree Group, and whose last employment with any such group, was with a TM Entity.

“Former Tree Employee” means any individual who as of the Effective Time is a former employee of the IAC Group, the TM Group, the Interval Group, the HSN Group or the Tree Group, and whose last employment with any such group, was with a Tree Entity.

“Group Insurance Policies” has the meaning set forth in Section 4.4(a).

“Growth Share Awards” has the meaning set forth in Section 5.3(g).

“H&W Transition Period” has the meaning set forth in Section 4.1(a).

“Health and Welfare Plans” means any plan, fund or program which was established or is maintained for the purpose of providing for its participants or their beneficiaries,

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through the purchase of insurance or otherwise, medical, dental, surgical or hospital care or benefits, or benefits in the event of sickness, accident, disability, death or unemployment, or vacation benefits, apprenticeship or other training programs or day care centers, scholarship funds, or prepaid legal services, including any such plan, fund or program as defined in Section 3(1) of ERISA. When immediately preceded by “IAC,” Health and Welfare Plans means each Health and Welfare Plan that is an IAC Benefit Plan. When immediately preceded by “TM,” Health and Welfare Plans means each Health and Welfare Plan that is a TM Benefit Plan. When immediately preceded by “Interval,” Health and Welfare Plans means each Health and Welfare Plan that is an Interval Benefit Plan. When immediately preceded by “HSN,” Health and Welfare Plans means each Health and Welfare Plan that is an HSN Benefit Plan. When immediately preceded by “Tree,” Health and Welfare Plans means each Health and Welfare Plan that is a Tree Benefit Plan.

“HIPAA” means the health insurance portability and accountability requirements for “group health plans” under the Health Insurance Portability and Accountability Act of 1996, as amended.

“HMO Agreements” has the meaning set forth in Section 4.4(a).

“HMO” means a health maintenance organization that provides benefits under the IAC Medical Plans, the TM Medical Plans, the Interval Medical Plans, the HSN Medical Plans or the Tree Medical Plans.

“HSN” has the meaning set forth in the Preamble of this Agreement.

“HSN Common Stock” means common stock, par value \$0.01 per share, of HSN.

“HSN Deferred Compensation Plan” has the meaning set forth in Section 5.5(c).

“HSN Employee” means any individual who, immediately prior to the Effective Time, is either actively employed by, or then on Approved Leave of Absence from, an HSN Entity.

“HSN Entities” has the meaning given that term in the Separation Agreement.

“HSN Executive Benefit Plans” means the executive benefit and nonqualified plans, programs, and arrangements established, sponsored, maintained, or agreed upon, by any HSN Entity for the benefit of employees and former employees of any HSN Entity before the Close of the Distribution Date.

“HSN Factor” means the product obtained by multiplying (a) 0.2 and (b) the Adjustment Ratio.

“HSN Long-Term Incentive Plan” means the long-term incentive plan or program to be established by HSN, effective immediately prior to the Distribution Date.

“HSN Ratio” means the quotient obtained by dividing the IAC Stock Value by the HSN Stock Value.

“HSN Retirement Savings Plan” means the 401(k) and profit sharing plan to be established by HSN pursuant to Section 3.1 of this Agreement, as in effect as of the time relevant to the applicable provision of this Agreement.

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“HSN Retirement Savings Plan Trust” means a trust relating to the HSN Retirement Savings Plan intended to qualify under Section 401(a) and be exempt under Section 501(a) of the Code.

“HSN Stock Value” means the closing per-share price of HSN Common Stock in the “when issued market” as listed on the NASDAQ as of 4:00 P.M. Eastern Standard Time in the last completed trading session immediately preceding the Effective Time.

“IAC” has the meaning set forth in the Preamble of this Agreement.

“IAC Common Stock” means shares of common stock, \$0.001 par value per share, of IAC.

“IAC Employee” means any individual who, immediately prior to the Close of the Distribution Date, is either actively employed by, or then on Approved Leave of Absence from, any IAC Entity.

“IAC Entities” means the members of the IAC Group, as defined in the Separation Agreement, and their respective Subsidiaries and Affiliates, excluding any business or operations (whether current or historical, regardless of whether discontinued or sold) that are included in the TM Group, the Interval Group, the HSN Group or the Tree Group.

“IAC Executive Benefit Plans” means the executive benefit and nonqualified plans, programs, and arrangements established, sponsored, maintained, or agreed upon, by any IAC Entity for the benefit of employees and former employees of any IAC Entity before the Close of the Distribution Date.

“IAC Deferred Compensation Plan” has the meaning set forth in Section 5.5(a).

“IAC Factor” means the product obtained by multiplying (a) 0.5 and (b) the Adjustment Ratio.

“IAC Flexible Benefit Plan” has the meaning set forth in Section 4.5.

“IAC Incentive Plans” means any of the annual or short term incentive plans of IAC, all as in effect as of the time relevant to the applicable provisions of this Agreement.

“IAC Long-Term Incentive Plans” means any of the Silver King Communications, Inc. 1995 Stock Incentive Plan, HSN, Inc. 1997 Stock and Annual Incentive Plan, USA Interactive Amended and Restated 2000 Annual Stock and Incentive Plan, IAC/InterActiveCorp 2005 Stock and Annual Incentive Plan, Home Shopping Network, Inc. 1996 Stock Option Plan for Employees, Equity and Bonus Compensation Agreement with Barry Diller, TM, Inc. 1999 Amended and Restated Stock Option Plan, the Hotels Reservations Network, Inc. 2000 Stock Plan, Ticketmaster Online-Citysearch, Inc. 1996 Stock Option Plan, Ticketmaster Online-Citysearch, Inc. 1998 Stock Option Plan, Ticketmaster 1999 Stock Plan, and Ticketweb, Inc. 2000 Stock Plan, Styleclick, Inc. 1995 Stock Option Plan, Servicemagic, Inc. Amended and Restated 1999 Stock Option Plan, Precision Response Corporation Amended and Restated 1996 Incentive Stock Plan, TM, Inc. Amended and Restated 2001 Stock Plan, 1998 Stock Option Plan of LendingTree, Inc., Amended and Restated Stock Incentive Plan of LendingTree, Inc., the Silver King Communications, Inc. Directors Stock Option Plan, Hotwire, Inc. 2000 Equity Incentive Plan and any other stock incentive plan of IAC, all as in effect as of the time relevant to the

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applicable provisions of this Agreement.

“IAC Post-Separation Stock Value” means the closing per-share price of IAC Common Stock trading in the “ex-distribution market” as listed on the NASDAQ as of 4:00 P.M. Eastern Standard Time in the last completed trading session immediately preceding the Effective Time.

“IAC Rabbi Trust” has the meaning set forth in Section 5.5(a).

“IAC Ratio” means the quotient obtained by dividing the IAC Stock Value by the IAC Post-Separation Stock Value.

“IAC Retirement Savings Plan” means the InterActiveCorp Retirement Savings Plan as in effect as of the time relevant to the applicable provision of this Agreement.

“IAC Stock Value” means the closing per share price of IAC Common Stock trading “regular way with due bills” as listed on the NASDAQ as of 4:00 P.M., Eastern Standard Time in the last completed trading session immediately preceding the Effective Time.

“Immediately after the Distribution Date” means on the first moment of the day after the Distribution Date.

“Interval” has the meaning set forth in the Preamble of this Agreement.

“Interval Common Stock” means common stock, par value \$0.01 per share, of Interval.

“Interval Employee” means any individual who, immediately prior to the Effective Time, is either actively employed by, or then on Approved Leave of Absence from, an Interval Entity.

“Interval Entities” has the meaning given that term in the Separation Agreement.

“Interval Executive Benefit Plans” means the executive benefit and nonqualified plans, programs, and arrangements established, sponsored, maintained, or agreed upon, by any Interval Entity for the benefit of employees and former employees of any Interval Entity before the Close of the Distribution Date.

“Interval Factor” means the product obtained by multiplying (a) 0.2 and (b) the Adjustment Ratio.

“Interval Long-Term Incentive Plan” means the long-term incentive plan or program to be established by Interval, effective immediately prior to the Distribution Date.

“Interval Ratio” means the quotient obtained by dividing the IAC Stock Value by the Interval Stock Value.

“Interval Retirement Savings Plan Trust” means a trust relating to the Interval Retirement Savings Plan intended to qualify under Section 401(a) and be exempt under Section 501(a) of the Code.

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“Interval Retirement Savings Plan” means the 401(k) and profit sharing plan to be established by Interval pursuant to Section 3.1 of this Agreement, as in effect as of the time relevant to the applicable provision of this Agreement.

“Interval Stock Value” means the closing per-share price of Interval Common Stock in the “when issued market” as listed on the NASDAQ as of 4:00 P.M. Eastern Standard Time in the last completed trading session immediately preceding the Effective Time.

“Liability” has the meaning given that term in the Separation Agreement.

“Medical Plan” when immediately preceded by “IAC,” means the Benefit Plan under which medical benefits are provided to IAC Employees established and maintained by IAC. When immediately preceded by TM, Medical Plan means the Benefit Plan under which medical benefits are provided to TM Employees to be established by TM pursuant to Article IV. When immediately preceded by Interval, Medical Plan means the Benefit Plan under which medical benefits are provided to Interval Employees to be established by Interval pursuant to Article IV. When immediately preceded by HSN, Medical Plan means the Benefit Plan under which medical benefits are provided to HSN Employees to be established by HSN pursuant to Article IV. When immediately preceded by Tree, Medical Plan means the Benefit Plan under which medical benefits are provided to Tree Employees to be established by Tree pursuant to Article IV.

“NASDAQ” means the National Association of Securities Dealers Inc. Automated Quotation System.

“Net RSU Shares” has the meaning set forth in Section 5.3(l).

“Non-parties” has the meaning set forth in Section 6.4(c).

“Option” when immediately preceded by “IAC,” means an option (either nonqualified or incentive) to purchase shares of IAC Common Stock pursuant to an IAC Long-Term Incentive Plan. When immediately preceded by “TM,” Option means an option (either nonqualified or incentive) to purchase shares of TM Common Stock following the Effective Time pursuant to the TM Long-Term Incentive Plan. When immediately preceded by “Interval,” Option means an option (either nonqualified or incentive) to purchase shares of Interval Common Stock following the Effective Time pursuant to the Interval Long-Term Incentive Plan. When immediately preceded by “HSN,” Option means an option (either nonqualified or incentive) to purchase shares of HSN Common Stock following the Effective Time pursuant to the HSN Long-Term Incentive Plan. When immediately preceded by “Tree,” Option means an option (either nonqualified or incentive) to purchase shares of Tree Common Stock following the Effective Time pursuant to the Tree Long-Term Incentive Plan.

“Participating Company” means (a) IAC and (b) any other Person (other than an individual) that participates in a plan sponsored by any IAC Entity.

“Parties” has the meaning set forth in the Preamble of this Agreement.

“Person” has the meaning given that term in the Separation Agreement.

“PV IAC Restricted Stock Units” has the meaning set forth in Section 5.3(g).

“Restricted Stock” (a) when immediately preceded by “IAC,” means shares of IAC Common Stock that are subject to restrictions on transferability and a risk of forfeiture and

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are issued under an IAC Benefit Plan, (b) when immediately preceded by “TM,” means shares of TM Common Stock that are subject to restrictions on transferability and a risk of forfeiture and are issued under a TM Benefit Plan, (c) when immediately preceded by “Interval,” means shares of Interval Common Stock that are subject to restrictions on transferability and a risk of forfeiture and are issued under an Interval Benefit Plan, (d) when immediately preceded by “HSN,” means shares of HSN Common Stock that are subject to restrictions on transferability and a risk of forfeiture and are issued under an HSN Benefit Plan and (e) when immediately preceded by “Tree,” means shares of Tree Common Stock that are subject to restrictions on transferability and a risk of forfeiture and are issued under a Tree Benefit Plan.

“Restricted Stock Unit” (a) when immediately preceded by “IAC,” means units issued under an IAC Benefit Plan representing a general unsecured promise by IAC to pay the value of shares of IAC Common Stock in cash or shares of IAC Common Stock, (b) when immediately preceded by “TM,” means units issued under the TM Long-Term Incentive Plan representing a general unsecured promise by TM to pay the value of shares of TM Common Stock in cash or shares of TM Common Stock, (c) when immediately preceded by “Interval,” means units issued under the Interval Long-Term Incentive Plan representing a general unsecured promise by Interval to pay the value of shares of Interval Common Stock in cash or shares of Interval Common Stock, (d) when immediately preceded by “HSN,” means units issued under the HSN Long-Term Incentive Plan representing a general unsecured promise by HSN to pay the value of shares of HSN Common Stock in cash or shares of HSN Common Stock, (e) when immediately preceded by “Tree,” means units issued under the Tree Long-Term Incentive Plan representing a general unsecured promise by Tree to pay the value of shares of Tree Common Stock in cash or shares of Tree Common Stock.

“Separation” has the meaning given that term in the Separation Agreement.

“Separation Agreement” has the meaning set forth in the recitals to this Agreement.

“SpinCos” has the meaning set forth in the Preamble of this Agreement.

“SpinCo Employee” means a TM Employee, Interval Employee, HSN Employee and/or Tree Employee as the context requires.

“TM” has the meaning set forth in the Preamble of this Agreement.

“TM Common Stock” means common stock, par value \$0.01 per share, of TM.

“TM Deferred Compensation Plan” has the meaning set forth in Section 5.5(a).

“TM Employee” means any individual who, immediately prior to the Effective Time, is either actively employed by, or then on Approved Leave of Absence from, a TM Entity.

“TM Entities” has the meaning given that term in the Separation Agreement.

“TM Executive Benefit Plans” means the executive benefit and nonqualified plans, programs, and arrangements established, sponsored, maintained, or agreed upon, by any TM Entity for the benefit of employees and former employees of any TM Entity before the Close of the Distribution Date.

“TM Factor” means the product obtained by multiplying (a) 0.2 and (b) the Adjustment Ratio.

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“TM Long-Term Incentive Plan” means the long-term incentive plan or program to be established by TM, effective immediately prior to the Distribution Date.

“TM Participants” has the meaning set forth in Section 5.5(a).

“TM Rabbi Trust” has the meaning set forth in Section 5.5(a).

“TM Ratio” means the quotient obtained by dividing the IAC Stock Value by the TM Stock Value.

“TM Retirement Savings Plan” means the 401(k) and profit sharing plan to be established by TM pursuant to Section 3.1 of this Agreement, as in effect as of the time relevant to the applicable provision of this Agreement.

“TM Retirement Savings Plan Trust” means a trust relating to the TM Retirement Savings Plan intended to qualify under Section 401(a) and be exempt under Section 501(a) of the Code.

“TM Stock Value” means the closing per-share price of TM Common Stock in the “when issued market” as listed on the NASDAQ as of 4:00 P.M. Eastern Standard Time in the last completed trading session immediately preceding the Effective Time.

“Tree” has the meaning set forth in the Preamble of this Agreement.

“Tree Common Stock” means common stock, par value \$0.01 per share, of Tree.

“Tree Deferred Compensation Plan” has the meaning set forth in Section 5.5(d).

“Tree Employee” means any individual who, immediately prior to the Effective Time, is either actively employed by, or then on Approved Leave of Absence from, a Tree Entity.

“Tree Entities” has the meaning given that term in the Separation Agreement.

“Tree Executive Benefit Plans” means the executive benefit and nonqualified plans, programs, and arrangements established, sponsored, maintained, or agreed upon, by any Tree Entity for the benefit of employees and former employees of any Tree Entity before the Close of the Distribution Date.

“Tree Factor” means the product obtained by multiplying (a) 0.03333 and (b) the Adjustment Ratio.

“Tree Long-Term Incentive Plan” means the long-term incentive plan or program to be established by Tree, effective immediately prior to the Distribution Date.

“Tree Participants” has the meaning set forth in Section 5.5(d).

“Tree Rabbi Trust” has the meaning set forth in Section 5.5(d).

“Tree Ratio” means the quotient obtained by dividing the IAC Stock Value by the Tree Stock Value.

“Tree Retirement Savings Plan” means the 401(k) and profit sharing plan to be established by Tree pursuant to Section 3.1 of this Agreement, as in effect as of the time relevant to the applicable provision of this Agreement.

“Tree Retirement Savings Plan Trust” means a trust relating to the Tree Retirement Savings Plan intended to qualify under Section 401(a) and be exempt under Section 501(a) of the Code.

“Tree Stock Value” means the closing per-share price of Tree Common Stock in the “when issued market” as listed on the NASDAQ as of 4:00 P.M. Eastern Standard Time in the last completed trading session immediately preceding the Effective Time.

“U.S.” means the 50 United States of America and the District of Columbia.

## ARTICLE II GENERAL PRINCIPLES

### 2.1 Employment.

- Time.
- (a) All TM Employees shall continue to be employees of TM or another TM Entity, as the case may be, immediately after the Effective Time.
  - (b) All Interval Employees shall continue to be employees of Interval or another Interval Entity, as the case may be, immediately after the Effective Time.
  - (c) All HSN Employees shall continue to be employees of HSN or another HSN Entity, as the case may be, immediately after the Effective Time.
  - (d) All Tree Employees shall continue to be employees of Tree or another Tree Entity, as the case may be, immediately after the Effective Time.

### 2.2 Assumption and Retention of Liabilities; Related Assets.

(a) As of the Distribution Date, except as expressly provided in this Agreement, the IAC Entities shall assume or retain and IAC hereby agrees to pay, perform, fulfill and discharge, in due course in full (i) all Liabilities under all IAC Benefit Plans with respect to all IAC Employees, Former IAC Employees and their dependents and beneficiaries, (ii) all Liabilities with respect to the employment or termination of employment of all IAC Employees, Former IAC Employees and their dependents and beneficiaries, and other service providers (including any individual who is, or was, an independent contractor, temporary employee, temporary service worker, consultant, freelancer, agency employee, leased employee, on-call worker, incidental worker, or nonpayroll worker of any IAC Entity or in any other employment, non-employment, or retainer arrangement, or relationship with any IAC Entity), in each case to the extent arising in connection with or as a result of employment with or the performance of services to any IAC Entity, and (iii) any other Liabilities expressly assigned to IAC under this Agreement. All assets held in trust to fund the IAC Benefit Plans and all insurance policies funding the IAC Benefit Plans shall be IAC Assets (as defined in the Separation Agreement), except to the extent specifically provided otherwise in this Agreement.



(b) From and after the Distribution Date, except as expressly provided in this Agreement, TM and the TM Entities shall assume or retain, as applicable, and TM hereby agrees to pay, perform, fulfill and discharge, in due course in full, (i) all Liabilities

under all TM Benefit Plans, (ii) all Liabilities with respect to the employment or termination of employment of all TM Employees, Former TM Employees and their dependents and beneficiaries, and other service providers (including any individual who is, or was, an independent contractor, temporary employee, temporary service worker, consultant, freelancer, agency employee, leased employee, on-call worker, incidental worker, or nonpayroll worker of TM or any TM Entity or in any other employment, non-employment, or retainer arrangement, or relationship with TM or a TM Entity), in each case to the extent arising in connection with or as a result of employment with or the performance of services to any TM Entity and (iii) any other Liabilities expressly assigned to TM or any TM Entity under this Agreement.

(c) From and after the Distribution Date, except as expressly provided in this Agreement, Interval and the Interval Entities shall assume or retain, as applicable, and Interval hereby agrees to pay, perform, fulfill and discharge, in due course in full, (i) all Liabilities under all Interval Benefit Plans, (ii) all Liabilities with respect to the employment or termination of employment of all Interval Employees, Former Interval Employees and their dependents and beneficiaries, and other service providers (including any individual who is, or was, an independent contractor, temporary employee, temporary service worker, consultant, freelancer, agency employee, leased employee, on-call worker, incidental worker, or nonpayroll worker of Interval or any Interval Entity or in any other employment, non-employment, or retainer arrangement, or relationship with Interval or an Interval Entity), in each case to the extent arising in connection with or as a result of employment with or the performance of services to any Interval Entity and (iii) any other Liabilities expressly assigned to Interval or any Interval Entity under this Agreement.

(d) From and after the Distribution Date, except as expressly provided in this Agreement, HSN and the HSN Entities shall assume or retain, as applicable, and HSN hereby agrees to pay, perform, fulfill and discharge, in due course in full, (i) all Liabilities under all HSN Benefit Plans, (ii) all Liabilities with respect to the employment or termination of employment of all HSN Employees, Former HSN Employees and their dependents and beneficiaries, and other service providers (including any individual who is, or was, an independent contractor, temporary employee, temporary service worker, consultant, freelancer, agency employee, leased employee, on-call worker, incidental worker, or nonpayroll worker of HSN or any HSN Entity or in any other employment, non-employment, or retainer arrangement, or relationship with HSN or an HSN Entity), in each case to the extent arising in connection with or as a result of employment with or the performance of services to any HSN Entity and (iii) any other Liabilities expressly assigned to HSN or any HSN Entity under this Agreement.

(e) From and after the Distribution Date, except as expressly provided in this Agreement, Tree and the Tree Entities shall assume or retain, as applicable, and Tree hereby agrees to pay, perform, fulfill and discharge, in due course in full, (i) all Liabilities under all Tree Benefit Plans, (ii) all Liabilities with respect to the employment or termination of employment of all Tree Employees, Former Tree Employees and their dependents and beneficiaries, and other service providers (including any individual who is, or was, an independent contractor, temporary employee, temporary service worker, consultant, freelancer, agency employee, leased employee, on-call worker, incidental worker, or nonpayroll worker of Tree or any Tree Entity or in any other employment, non-employment, or retainer arrangement, or relationship with Tree or a Tree Entity), in each case to the extent arising in connection with or as a result of employment with or the performance of services to any Tree Entity and (iii) any other Liabilities expressly assigned to Tree or any Tree Entity under this Agreement.

### 2.3 SpinCo Participation in IAC Benefit Plans

(a) Except as expressly provided in this Agreement, effective as of the Close of the Distribution Date, TM and each other TM Entity shall cease to be a Participating Company in any IAC Benefit Plan, and IAC and TM shall take all necessary action before the Distribution Date to effectuate such cessation as a Participating Company.

(b) Except as expressly provided in this Agreement, effective as of the Close of the Distribution Date, Interval and each other Interval Entity shall cease to be a Participating Company in any IAC Benefit Plan, and IAC and Interval shall take all necessary action before the Distribution Date to effectuate such cessation as a Participating Company.

(c) Except as expressly provided in this Agreement, effective as of the Close of the Distribution Date, HSN and each other HSN Entity shall cease to be a Participating Company in any IAC Benefit Plan, and IAC and HSN shall take all necessary action before the Distribution Date to effectuate such cessation as a Participating Company.

(d) Except as expressly provided in this Agreement, effective as of the Close of the Distribution Date, Tree and each other Tree Entity shall cease to be a Participating Company in any IAC Benefit Plan, and IAC and Tree shall take all necessary action before the Distribution Date to effectuate such cessation as a Participating Company.

### 2.4 Terms of Participation by SpinCo Employees in SpinCo Benefit Plans

(a) IAC and TM shall agree on methods and procedures, including, without limitation, amending the respective Benefit Plan documents, to prevent TM Employees from receiving duplicative benefits from the IAC Benefit Plans and the TM Benefit Plans. With respect to TM Employees, each TM Benefit Plan shall provide that all service, all compensation and all other benefit-affecting determinations that, as of December 31, 2008 were recognized under the corresponding IAC Benefit Plan shall, as of January 1, 2009 receive full recognition, credit and validity and be taken into account under such TM Benefit Plan to the same extent as if such items occurred under such TM Benefit Plan, except to the extent that duplication of benefits would result or for benefit accrual to the extent that TM adopts a final average pay defined benefit pension plan.

(b) IAC and Interval shall agree on methods and procedures, including, without limitation, amending the respective Benefit Plan documents, to prevent Interval Employees from receiving duplicative benefits from the IAC Benefit Plans and the Interval Benefit Plans. With respect to Interval Employees, each Interval Benefit Plan shall provide that all service, all compensation and all other benefit-affecting determinations that, as of December 31, 2008 were recognized under the corresponding IAC Benefit Plan shall, as of January 1, 2009 receive full recognition, credit and validity and be taken into account under such Interval Benefit Plan to the same extent as if such items occurred under such Interval Benefit Plan, except to the extent that duplication of benefits would result or for benefit accrual to the extent that Interval adopts a final average pay defined benefit pension plan.

(c) IAC and HSN shall agree on methods and procedures, including, without limitation, amending the respective Benefit Plan documents, to prevent HSN Employees from receiving duplicative benefits from the IAC Benefit Plans and the HSN Benefit Plans. With respect to HSN Employees, each HSN Benefit Plan shall provide that all service, all compensation and all other benefit-affecting determinations that, as of December 31, 2008 were recognized under the corresponding IAC Benefit Plan shall, as of January 1, 2009 receive full recognition, credit and validity and be taken into account under

such HSN Benefit Plan to the same extent as if such items occurred under such HSN Benefit Plan, except to the extent that duplication of benefits would result or for benefit accrual to the extent that HSN adopts a final average pay defined benefit pension plan.

(d) IAC and Tree shall agree on methods and procedures, including, without limitation, amending the respective Benefit Plan documents, to prevent Tree Employees from receiving duplicative benefits from the IAC Benefit Plans and the Tree Benefit Plans. With respect to Tree Employees, each Tree Benefit Plan shall provide that all service, all compensation and all other benefit-affecting determinations that, as of December 31, 2008 were recognized under the corresponding IAC Benefit Plan shall, as of January 1, 2009 receive full recognition, credit and validity and be taken into account under such Tree Benefit Plan to the same extent as if such items occurred under such Tree Benefit Plan, except to the extent that duplication of benefits would result or for benefit accrual to the extent that Tree adopts a final average pay defined benefit pension plan.

2.5 Commercially Reasonable Efforts. IAC, TM, Interval, HSN and Tree shall use commercially reasonable efforts to (a) enter into any necessary agreements to accomplish the assumptions and transfers contemplated by this Agreement; and (b) provide for the maintenance of the necessary participant records, the appointment of the trustees and the engagement of recordkeepers, investment managers, providers, insurers, etc.

2.6 Regulatory Compliance. IAC, TM, Interval, HSN and Tree shall, in connection with the actions taken pursuant to this Agreement, cooperate in making any and all appropriate filings required under the Code, ERISA and any applicable securities laws, implementing all appropriate communications with participants, transferring appropriate records and taking all such other actions as may be necessary and appropriate to implement the provisions of this Agreement in a timely manner.

2.7 Approval by IAC as Sole Stockholder. Prior to the Effective Time, IAC shall cause (a) TM to adopt the TM 2008 Long-Term Incentive Plan, (b) Interval to adopt the Interval 2008 Long-Term Incentive Plan, (c) HSN to adopt the HSN 2008 Long-Term Incentive Plan and (d) Tree to adopt the Tree 2008 Long-Term Incentive Plan.

### ARTICLE III SAVINGS PLANS

3.1 Savings Plan Transition Period. From the Distribution Date and continuing until December 31, 2008, each of TM, Interval, HSN and Tree shall adopt and maintain the IAC Retirement Savings Plan for the benefit of TM Employees and Former TM Employees, Interval Employees and Former Interval Employees, HSN Employees and Former HSN Employees and Tree Employees and Former Tree Employees, respectively, and IAC shall consent to such adoption and maintenance, in accordance with the terms of the IAC Retirement Savings Plan. Each of the Parties agrees that, following the Distribution Date and prior to December 31, 2008, the trustee of the IAC Retirement Savings Plan shall sell all shares of IAC Common Stock, TM Common Stock, Interval Common Stock, HSN Common Stock and Tree Common Stock held in the accounts of IAC Employees and Former IAC Employees, TM Employees and Former TM Employees, Interval Employees and Former Interval Employees, HSN Employees and Former HSN Employees and Tree Employees and Former Tree Employees (provided that IAC may in its sole discretion instruct the trustee of the IAC Retirement Savings Plan not to sell the shares of IAC Common Stock held by IAC Employees and Former IAC Employees). On and after the Distribution Date and until the completion of the sales contemplated by the immediately preceding sentence, shares of IAC Common Stock shall be held in an IAC Common Stock Fund, shares of TM Common Stock

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shall be held in a TM Common Stock Fund, shares of Interval Common Stock shall be held in an Interval Common Stock Fund, shares of HSN Common Stock shall be held in an HSN Common Stock Fund and shares of Tree Common Stock shall be held in a Tree Common Stock Fund, in each case, under the IAC Retirement Savings Plan. Following the Distribution Date, IAC Employees and Former IAC Employees, TM Employees and Former TM Employees, Interval Employees and Former Interval Employees and Tree Employees and Former Tree Employees shall not be permitted to acquire shares of IAC Common Stock, TM Common Stock, Interval Common Stock, HSN Common Stock or Tree Common Stock in the IAC Common Stock Fund, the TM Common Stock Fund, the Interval Common Stock Fund, the HSN Common Stock Fund or the Tree Common Stock Fund, as applicable, under the IAC Retirement Savings Plan (provided that IAC may in its sole discretion instruct the trustee of the IAC Retirement Savings Plan to permit IAC Employees and Former IAC Employees to acquire additional shares of IAC Common Stock in the IAC Common Stock Fund).

#### 3.2 SpinCo Savings Plans

(a) Effective as of January 1, 2009, TM shall establish the TM Retirement Savings Plan and the TM Retirement Savings Plan Trust. As soon as practical following the establishment of the TM Retirement Savings Plan and the TM Retirement Savings Plan Trust, IAC shall cause the accounts of the TM Employees and Former TM Employees in the IAC Retirement Savings Plan to be transferred to the TM Retirement Savings Plan and the TM Retirement Savings Plan Trust in cash or such other assets as mutually agreed by IAC and TM, and TM shall cause the TM Retirement Savings Plan to assume and be solely responsible for all Liabilities under the TM Retirement Savings Plan to or relating to TM Employees and Former TM Employees whose accounts are transferred from the IAC Retirement Savings Plan. IAC and TM agree to cooperate in making all appropriate filings and taking all reasonable actions required to implement the provisions of this Section 3.2; provided that TM acknowledges that it will be responsible for complying with any requirements and applying for any determination letters with respect to the TM Retirement Savings Plan.

(b) Effective as of January 1, 2009, Interval shall establish the Interval Retirement Savings Plan and the Interval Retirement Savings Plan Trust. As soon as practical following the establishment of the Interval Retirement Savings Plan and the Interval Retirement Savings Plan Trust, IAC shall cause the accounts of the Interval Employees and Former Interval Employees in the IAC Retirement Savings Plan to be transferred to the Interval Retirement Savings Plan and the Interval Retirement Savings Plan Trust in cash or such other assets as mutually agreed by IAC and Interval, and Interval shall cause the Interval Retirement Savings Plan to assume and be solely responsible for all Liabilities under the Interval Retirement Savings Plan to or relating to Interval Employees and Former Interval Employees whose accounts are transferred from the IAC Retirement Savings Plan. IAC and Interval agree to cooperate in making all appropriate filings and taking all reasonable actions required to implement the provisions of this Section 3.2; provided that Interval acknowledges that it will be responsible for complying with any requirements and applying for any determination letters with respect to the Interval Retirement Savings Plan.

(c) Effective as of January 1, 2009, HSN shall establish the HSN Retirement Savings Plan and the HSN Retirement Savings Plan Trust. As soon as practical following the establishment of the HSN Retirement Savings Plan and the HSN Retirement Savings Plan Trust, IAC shall cause the accounts of the HSN Employees and Former HSN Employees in the IAC Retirement Savings Plan to be transferred to the HSN Retirement Savings Plan and the HSN Retirement Savings Plan Trust in cash or such other assets as mutually agreed by IAC and HSN, and HSN shall cause the HSN Retirement Savings Plan to

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assume and be solely responsible for all Liabilities under the HSN Retirement Savings Plan to or relating to HSN Employees and Former HSN Employees whose accounts are transferred from the IAC Retirement Savings Plan. IAC and HSN agree to cooperate in making all appropriate filings and taking all reasonable actions required to implement the provisions of this Section 3.2; provided that HSN acknowledges that it will be responsible for complying with any requirements and applying for any determination letters with respect to the HSN Retirement Savings Plan.

(d) Effective as of January 1, 2009, Tree shall establish the Tree Retirement Savings Plan and the Tree Retirement Savings Plan Trust. As soon as practical following the establishment of the Tree Retirement Savings Plan and the Tree Retirement Savings Plan Trust, IAC shall cause the accounts of the Tree Employees and Former Tree Employees in the IAC Retirement Savings Plan to be transferred to the Tree Retirement Savings Plan and the Tree Retirement Savings Plan Trust in cash or

such other assets as mutually agreed by IAC and Tree, and Tree shall cause the Tree Retirement Savings Plan to assume and be solely responsible for all Liabilities under the Tree Retirement Savings Plan to or relating to Tree Employees and Former Tree Employees whose accounts are transferred from the IAC Retirement Savings Plan. IAC and Tree agree to cooperate in making all appropriate filings and taking all reasonable actions required to implement the provisions of this Section 3.2; provided that Tree acknowledges that it will be responsible for complying with any requirements and applying for any determination letters with respect to the Tree Retirement Savings Plan.

#### ARTICLE IV HEALTH AND WELFARE PLANS

##### 4.1 Transition Period.

(a) IAC will cause the IAC Health and Welfare Plans in effect on the Distribution Date to provide coverage to TM Employees and Former TM Employees, Interval Employees and Former Interval Employees, HSN Employees and Former HSN Employees and Tree Employees and Former Tree Employees (and, in each case, their beneficiaries and dependents) from and after the Distribution Date until December 31, 2008 (such period, the "H&W Transition Period") on the same basis as immediately prior to the date of the Distribution Date and in accordance with the terms of IAC's Health and Welfare Plans. Following the Distribution Date, each SpinCo shall pay to IAC fees in respect of IAC covering such SpinCo's SpinCo Employees and SpinCo Former Employees under the IAC Health and Welfare Plans, such fees to be based on the per-employee budgeted rates set forth on Exhibit A to this Agreement. The fees contemplated by this Section 4.1 shall be payable in advance each month (i.e., not later than the first day of any month during which coverage applies) during the H&W Transition Period and shall be based on the prior month's enrollment, with appropriate, subsequent adjustments in each succeeding month to reflect actual enrollment; provided, however, that the fees relating to the period from and including the first day of the month during which the Distribution Date occurs through the end of the month during which the Distribution Date occurs shall be payable no later than the fifth business day following the Distribution Date. In the event that any SpinCo fails to pay in a timely manner the fees contemplated by this Section 4.1(a), IAC shall have no obligation to provide the coverage contemplated by this Section 4.1(a) to such SpinCo's SpinCo Employees and SpinCo Former Employees.

(b) Following the H&W Transition Period, but not later than May 15, 2009, IAC shall calculate in good faith the total costs and expenses of the IAC Health and Welfare Plans for 2008 (including without limitation claims paid and administration fees and IAC's

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good faith estimate of claims incurred in 2008 but not reported by March 31, 2009 (such estimate to be prepared based on historical claims reporting patterns and history)) (the "2008 H&W Expenses"), and IAC promptly shall provide to each of the SpinCos the 2008 H&W Expenses following such calculation. To the extent 2008 H&W Expenses (i) exceed the aggregate fees paid by IAC and the SpinCos in respect of coverage during 2008 of IAC Employees and Former Employees and SpinCo Employees and Former SpinCo Employees (the "2008 H&W Fees"), each of the SpinCos shall be required to pay to IAC by wire transfer such SpinCo's ratable portion (calculated on the basis of the number of such SpinCo's SpinCo Employees relative to the total number of IAC Employees and SpinCo Employees taken together) of the fees deficit, and (ii) is less than the 2008 H&W Fees, IAC shall pay to each of the SpinCos such SpinCo's ratable portion (calculated on the basis of the number of such SpinCo's SpinCo Employees relative to the total number of IAC Employees and SpinCo Employees taken together) of the excess fees collected, any such payments pursuant to clause (i) or clause (ii) to be made no later than July 15, 2009. Any calculations made by IAC pursuant to this Section 4.1(b) shall be final and binding upon the SpinCos. For purposes of this Section 4.1(b), any calculation based on a number of employees shall be based on [ ] .

##### 4.2 Establishment of Health and Welfare Plans.

(a) Effective as of January 1, 2009, TM shall adopt Health and Welfare Plans for the benefit of TM Employees and Former TM Employees, and TM shall be responsible for all Liabilities relating to, arising out of or resulting from health and welfare coverage or claims incurred by or on behalf of TM Employees and Former TM Employees or their covered dependents under the TM Health and Welfare Plans prior to, on or after January 1, 2009.

(b) Effective as of January 1, 2009, Interval shall adopt Health and Welfare Plans for the benefit of Interval Employees and Former Interval Employees, and Interval shall be responsible for all Liabilities relating to, arising out of or resulting from health and welfare coverage or claims incurred by or on behalf of Interval Employees and Former Interval Employees or their covered dependents under the Interval Health and Welfare Plans prior to, on or after January 1, 2009.

(c) Effective as of January 1, 2009, HSN shall adopt Health and Welfare Plans for the benefit of HSN Employees and Former HSN Employees, and HSN shall be responsible for all Liabilities relating to, arising out of or resulting from health and welfare coverage or claims incurred by or on behalf of HSN Employees and Former HSN Employees or their covered dependents under the HSN Health and Welfare Plans prior to, on or after January 1, 2009.

(d) Effective as of January 1, 2009, Tree shall adopt Health and Welfare Plans for the benefit of Tree Employees and Former Tree Employees, and Tree shall be responsible for all Liabilities relating to, arising out of or resulting from health and welfare coverage or claims incurred by or on behalf of Tree Employees and Former Tree Employees or their covered dependents under the Tree Health and Welfare Plans prior to, on or after January 1, 2009.

(e) Notwithstanding anything to the contrary in this Section 4.2, with respect to any TM Employee, Interval Employee, HSN Employee or Tree Employee who becomes disabled under the terms of the IAC Health and Welfare Plans and becomes entitled to receive

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long-term or short-term disability benefits prior to January 1, 2009, such TM Employee, Interval Employee, HSN Employee or Tree Employee shall continue to receive long-term or short-term disability benefits under the IAC Health and Welfare Plans on and after January 1, 2009 in accordance with the terms of the IAC Health and Welfare Plans.

##### 4.3 Retention of Sponsorship and Liabilities. Following the Distribution Date, IAC shall retain:

(a) sponsorship of all IAC Health and Welfare Plans and any trust or other funding arrangement established or maintained with respect to such plans, including any "voluntary employee's beneficiary association," or any assets held as of the Distribution Date with respect to such plans; and

(b) all Liabilities relating to, arising out of, or resulting from health and welfare coverage or claims incurred by or on behalf of IAC Employees or Former IAC Employees or their covered dependents under the IAC Health and Welfare Plans prior to, on or after the Distribution Date.

Other than as contemplated by Section 4.1 with respect to the H&W Transition Period, IAC shall not assume any Liability relating to health and welfare claims incurred by or on behalf of SpinCo Employees or Former SpinCo Employees or their respective covered dependents prior to, on or after the Distribution Date, and such claims shall be satisfied pursuant to Section 4.2. For purposes of Sections 4.2 and 4.3 of this Agreement, a claim or Liability (1) for medical, dental, vision and/or prescription drug benefits shall be deemed to be incurred upon the rendering of health services giving rise to the obligation to pay such benefits; (2) for life insurance and accidental death and dismemberment and business travel accident insurance benefits and workers' compensation benefits shall be deemed to be incurred upon the occurrence of the event giving rise to the entitlement to such benefits; (3) for salary continuation or other disability benefits shall be deemed to be incurred upon the effective date of an individual's disability giving rise to the entitlement to such benefits under the applicable disability policy; and (4) for a period of continuous hospitalization shall be deemed to be incurred on the date of admission to the hospital.

#### 4.4 Vendor Contracts.

(a) IAC and TM shall use commercially reasonable efforts to obligate the third party administrator of each administrative-services-only contract with a third-party administrator that relates to any of the IAC Health and Welfare Plans (an “ASO Contract”), each group insurance policy that relates to any of the IAC Health and Welfare Plans (“Group Insurance Policies”) and each agreement with a Health Maintenance Organization that provides medical services under the IAC Health and Welfare Plans (“HMO Agreements”), in each case, in existence as of the date of this Agreement that is applicable to TM Employees, to enter into a separate ASO Contract, Group Insurance Policy and HMO Agreement, as applicable, with TM providing for substantially similar terms and conditions as are contained in the ASO Contracts, Group Insurance Policies and HMO Agreements, as applicable, to which IAC is a party. Such terms and conditions shall include the financial and termination provisions, performance standards, methodology, auditing policies, quality measures and reporting requirements.

(b) IAC and Interval shall use commercially reasonable efforts to obligate the third party administrator of each administrative-services-only contract with an ASO Contract, each Group Insurance Policy and each HMO Agreement, in each case, in existence as of the date of this Agreement that is applicable to Interval Employees, to enter into a separate ASO Contract, Group Insurance Policy and HMO Agreement, as applicable, with Interval providing for substantially similar terms and conditions as are contained in the ASO

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Contracts, Group Insurance Policies and HMO Agreements, as applicable, to which IAC is a party. Such terms and conditions shall include the financial and termination provisions, performance standards, methodology, auditing policies, quality measures and reporting requirements.

(c) IAC and HSN shall use commercially reasonable efforts to obligate the third party administrator of each administrative-services-only contract with an ASO Contract, each Group Insurance Policy and each HMO Agreement, in each case, in existence as of the date of this Agreement that is applicable to HSN Employees, to enter into a separate ASO Contract, Group Insurance Policy and HMO Agreement, as applicable, with HSN providing for substantially similar terms and conditions as are contained in the ASO Contracts, Group Insurance Policies and HMO Agreements, as applicable, to which IAC is a party. Such terms and conditions shall include the financial and termination provisions, performance standards, methodology, auditing policies, quality measures and reporting requirements.

(d) IAC and Tree shall use commercially reasonable efforts to obligate the third party administrator of each administrative-services-only contract with an ASO Contract, each Group Insurance Policy and each HMO Agreement, in each case, in existence as of the date of this Agreement that is applicable to Tree Employees, to enter into a separate ASO Contract, Group Insurance Policy and HMO Agreement, as applicable, with Tree providing for substantially similar terms and conditions as are contained in the ASO Contracts, Group Insurance Policies and HMO Agreements, as applicable, to which IAC is a party. Such terms and conditions shall include the financial and termination provisions, performance standards, methodology, auditing policies, quality measures and reporting requirements.

4.5 Flexible Benefit Plan. IAC will continue to maintain on behalf of TM Employees, Interval Employees, HSN Employees and Tree Employees the health care reimbursement program, the transit and parking reimbursement program and the dependent care reimbursement program of the IAC Flexible Benefit Plan (all of such accounts, “IAC Flexible Benefit Plan”) for claims incurred with respect to 2008 elections under the IAC Flexible Benefit Plan (all such claims must be submitted no later than April 15, 2009) on the same basis as immediately prior to the Distribution Date and in accordance with the terms of the IAC Flexible Benefit Plan. Following the Distribution Date, each SpinCo shall pay to IAC the amounts claimed by such SpinCo’s SpinCo Employees under the IAC Flexible Benefit Plan in addition to such SpinCo’s share of the administrative cost of the IAC Flexible Benefit Plan (based on IAC historical allocations), such amounts to be paid by each SpinCo on a one-month lagging basis (*i.e.*, claims made and administrative costs incurred during a particular month shall be billed in the immediately succeeding month); provided, that each SpinCo shall remit payment to IAC no later than the fifth business day following delivery by IAC of an invoice to such SpinCo. SpinCo Employees shall not participate in the IAC Flexible Benefit Plan with respect to any plan year after the 2008 plan year.

#### 4.6 Workers’ Compensation Liabilities.

(a) Except as provided below, all workers’ compensation Liabilities relating to, arising out of, or resulting from any claim by an IAC Employee, Former IAC Employee, SpinCo Employee or Former SpinCo Employee that results from an accident occurring, or from an occupational disease which becomes manifest, before the Distribution Date shall be retained by IAC.

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(b) All workers’ compensation Liabilities relating to, arising out of, or resulting from any claim by an IAC Employee or Former IAC Employee that results from an accident occurring, or from an occupational disease which becomes manifest, on or after the Distribution Date shall be retained by IAC.

(c) All workers’ compensation Liabilities relating to, arising out of, or resulting from any claim by a TM Employee or Former TM Employee that results from an accident occurring, or from an occupational disease which becomes manifest, on or after the Distribution Date shall be retained by TM.

(d) All workers’ compensation Liabilities relating to, arising out of, or resulting from any claim by an Interval Employee or Former Interval Employee that results from an accident occurring, or from an occupational disease which becomes manifest, on or after the Distribution Date shall be retained by Interval.

(e) All workers’ compensation Liabilities relating to, arising out of, or resulting from any claim by an HSN Employee or Former HSN Employee that results from an accident occurring, or from an occupational disease which becomes manifest, on or after the Distribution Date shall be retained by HSN.

(f) All workers’ compensation Liabilities relating to, arising out of, or resulting from any claim by a Tree Employee or Former Tree Employee that results from an accident occurring, or from an occupational disease which becomes manifest, on or after the Distribution Date shall be retained by Tree.

For purposes of this Agreement, a compensable injury shall be deemed to be sustained upon the occurrence of the event giving rise to eligibility for workers’ compensation benefits or at the time that an occupational disease becomes manifest, as the case may be. The Parties shall cooperate with respect to any notification to appropriate governmental agencies of the Effective Time and the issuance of new, or the transfer of existing, workers’ compensation insurance policies and claims handling contracts.

4.7 Payroll Taxes and Reporting of Compensation. Each of IAC, TM, Interval, HSN and Tree shall, and shall cause each of its respective Subsidiaries to, take such action as may be reasonably necessary or appropriate in order to minimize Liabilities related to payroll taxes after the Distribution Date. Each of IAC, TM, Interval, HSN and Tree shall, and shall cause each of its respective Subsidiaries to, respectively, bear its responsibility for payroll tax obligations and for the proper reporting to the appropriate governmental authorities of compensation earned by their respective employees after the Close of the Distribution Date, including compensation related to the exercise of Options and the vesting and/or settlement of Restricted Stock Units.

#### 4.8 COBRA and HIPAA Compliance.

(a) IAC shall be responsible for administering compliance with the health care continuation requirements of COBRA, the certificate of creditable coverage requirements of HIPAA, and the corresponding provisions of the IAC Health and Welfare Plans with respect to IAC Employees and Former IAC Employees and their covered dependents who incur a COBRA qualifying event or loss of coverage under the IAC Health and Welfare Plans at any time before, on or after the Effective Time.

(b) Until December 31, 2008, IAC shall be responsible for administering compliance with the health care continuation requirements of COBRA, the certificate of

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creditable coverage requirements of HIPAA, and the corresponding provisions of the IAC Health and Welfare Plans with respect to SpinCo Employees and Former SpinCo Employees and their covered dependents who incur a COBRA qualifying event or loss of coverage under the IAC Health and Welfare Plans at any time through December 31, 2008.

(c) On and after January 1, 2009, TM or another TM Entity shall be responsible for administering compliance with the health care continuation requirements of COBRA, the certificate of creditable coverage requirements of HIPAA, and the corresponding provisions of the TM Health and Welfare Plans and/or the IAC Health and Welfare Plans with respect to TM Employees and Former TM Employees and their covered dependents who incur a COBRA qualifying event or loss of coverage under the TM Health and Welfare Plans and/or the IAC Health and Welfare Plans at any time before, on or after the Effective Time.

(d) On and after January 1, 2009, Interval or another Interval Entity shall be responsible for administering compliance with the health care continuation requirements of COBRA, the certificate of creditable coverage requirements of HIPAA, and the corresponding provisions of the Interval Health and Welfare Plans and/or the IAC Health and Welfare Plans with respect to Interval Employees and Former Interval Employees and their covered dependents who incur a COBRA qualifying event or loss of coverage under the Interval Health and Welfare Plans and/or the IAC Health and Welfare Plans at any time before, on or after the Effective Time.

(e) On and after January 1, 2009, HSN or another HSN Entity shall be responsible for administering compliance with the health care continuation requirements of COBRA, the certificate of creditable coverage requirements of HIPAA, and the corresponding provisions of the HSN Health and Welfare Plans and/or the IAC Health and Welfare Plans with respect to HSN Employees and Former HSN Employees and their covered dependents who incur a COBRA qualifying event or loss of coverage under the HSN Health and Welfare Plans and/or the IAC Health and Welfare Plans at any time before, on or after the Effective Time.

(f) On and after January 1, 2009, Tree or another Tree Entity shall be responsible for administering compliance with the health care continuation requirements of COBRA, the certificate of creditable coverage requirements of HIPAA, and the corresponding provisions of the Tree Health and Welfare Plans and/or the IAC Health and Welfare Plans with respect to Tree Employees and Former Tree Employees and their covered dependents who incur a COBRA qualifying event or loss of coverage under the Tree Health and Welfare Plans and/or the IAC Health and Welfare Plans at any time before, on or after the Effective Time.

The Parties hereto agree that the consummation of the transactions contemplated by this Agreement and the Separation Agreement shall not constitute a COBRA qualifying event for any purpose of COBRA.

## ARTICLE V EXECUTIVE BENEFITS AND OTHER BENEFITS

### 5.1 Assumption of Obligations.

(a) Except as provided in this Agreement, effective as of the Effective Time, TM shall assume and be solely responsible for all Liabilities to or relating to TM Employees and Former TM Employees under all IAC Executive Benefit Plans and TM Executive Benefit Plans.

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(b) Except as provided in this Agreement, effective as of the Effective Time, Interval shall assume and be solely responsible for all Liabilities to or relating to Interval Employees and Former Interval Employees under all IAC Executive Benefit Plans and Interval Executive Benefit Plans.

(c) Except as provided in this Agreement, effective as of the Effective Time, HSN shall assume and be solely responsible for all Liabilities to or relating to HSN Employees and Former HSN Employees under all IAC Executive Benefit Plans and HSN Executive Benefit Plans.

(d) Except as provided in this Agreement, effective as of the Effective Time, Tree shall assume and be solely responsible for all Liabilities to or relating to Tree Employees and Former Tree Employees under all IAC Executive Benefit Plans and Tree Executive Benefit Plans.

The Parties hereto agree that none of the transactions contemplated by the Separation Agreement or any of the Ancillary Agreements, including, without limitation, this Agreement, constitutes a "change in control," "change of control" or similar term, as applicable, within the meaning of any Benefit Plan or any IAC Long-Term Incentive Plan.

### 5.2 IAC Incentive Plans

#### (a) SpinCo Bonus Awards

(i) TM shall be responsible for determining all bonus awards that would otherwise be payable under the IAC Incentive Plans to TM Employees for the Effective Time Year. TM shall also determine for TM Employees (A) the extent to which established performance criteria (as interpreted by TM, in its sole discretion) have been met, and (B) the payment level for each TM Employee. TM shall assume all Liabilities with respect to any such bonus awards payable to TM Employees for the Effective Time Year and thereafter.

(ii) Interval shall be responsible for determining all bonus awards that would otherwise be payable under the IAC Incentive Plans to Interval Employees for the Effective Time Year. Interval shall also determine for Interval Employees (A) the extent to which established performance criteria (as interpreted by Interval, in its sole discretion) have been met, and (B) the payment level for each Interval Employee. Interval shall assume all Liabilities with respect to any such bonus awards payable to Interval Employees for the Effective Time Year and thereafter.

(iii) HSN shall be responsible for determining all bonus awards that would otherwise be payable under the IAC Incentive Plans to HSN Employees for the Effective Time Year. HSN shall also determine for HSN Employees (A) the extent to which established performance criteria (as interpreted by HSN, in its sole discretion) have been met, and (B) the payment level for each HSN Employee. HSN shall assume all Liabilities with respect to any such bonus awards payable to HSN Employees for the Effective Time Year and thereafter.

(iv) Tree shall be responsible for determining all bonus awards that would otherwise be payable under the IAC Incentive Plans to Tree Employees for the Effective Time Year. Tree shall also determine for Tree Employees (A) the extent to which established performance criteria (as interpreted by Tree, in its sole discretion) have been met, and (B) the payment level for each Tree Employee. Tree shall

assume all Liabilities with respect to any such bonus awards payable to Tree Employees for the Effective Time Year and thereafter.

(b) IAC Bonus Awards IAC shall retain all Liabilities with respect to any bonus awards payable under the IAC Incentive Plans to IAC Employees for the Effective Time Year and thereafter.

5.3 IAC Long-Term Incentive Plans IAC and each of the SpinCos shall use commercially reasonable efforts to take all actions necessary or appropriate so that each outstanding Option and Award granted under any IAC Long-Term Incentive Plan held by any individual shall be adjusted as set forth in this Article V. Following the Separation, with respect to any award adjusted under this Section 5.3, any reference to a “change in control,” “change of control” or similar definition in an award agreement, employment agreement or IAC Long-Term Incentive Plan applicable to such award (1) with respect to post-Separation equity awards denominated in shares of IAC Common Stock, shall be deemed to refer to a “change in control,” “change of control” or similar definition as set forth in the applicable award agreement, employment agreement or IAC Long-Term Incentive Plan, (2) with respect to post-Separation equity awards denominated in shares of TM Common Stock, shall be deemed to refer to a “Change in Control” as defined in the TM Long-Term Incentive Plan, (3) with respect to post-Separation equity awards denominated in shares of Interval Common Stock, shall be deemed to refer to a “Change in Control” as defined in the Interval Long-Term Incentive Plan, (4) with respect to post-Separation equity awards denominated in shares of HSN Common Stock, shall be deemed to refer to a “Change in Control” as defined in the HSN Long-Term Incentive Plan, and (5) with respect to post-Separation equity awards denominated in shares of Tree Common Stock, shall be deemed to refer to a “Change in Control” as defined in the Tree Long-Term Incentive Plan.

(a) IAC Options Granted Prior to January 1, 2008 As determined by the Compensation and Human Resources Committee of the IAC Board of Directors (the “Committee”) pursuant to its authority under the applicable IAC Long-Term Incentive Plan, each IAC Option granted prior to January 1, 2008, whether vested or unvested, that is outstanding as of the Effective Time shall be converted at the Effective Time into an IAC Option, a TM Option, an Interval Option, an HSN Option and a Tree Option and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such IAC Option immediately prior to the Effective Time, subject to the following adjustments which shall apply from and after the Effective Time:

(i) (A) the number of shares of IAC Common Stock subject to such IAC Option, rounded down to the nearest whole share, shall be equal to the product obtained by multiplying (1) the number of shares of IAC Common Stock subject to such IAC Option immediately prior to the Effective Time by (2) the IAC Factor, and (B) the per share exercise price of such IAC Option, rounded up to the nearest whole cent, shall be equal to the quotient obtained by dividing (1) the per share exercise price of such IAC Option immediately prior to the Effective Time by (2) the IAC Ratio;

(ii) (A) the number of shares of TM Common Stock subject to such TM Option, rounded down to the nearest whole share, shall be equal to the product obtained by multiplying (1) the number of shares of IAC Common Stock subject to such IAC Option immediately prior to the Effective Time by (2) the TM Factor, and (B) the per share exercise

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price of such TM Option, rounded up to the nearest whole cent, shall be equal to the quotient obtained by dividing (1) the per share exercise price of such IAC Option immediately prior to the Effective Time by (2) the TM Ratio (this clause (ii) shall not apply if IAC does not distribute shares of TM Common Stock on the Distribution Date);

(iii) (A) the number of shares of Interval Common Stock subject to such Interval Option, rounded down to the nearest whole share, shall be equal to the product obtained by multiplying (1) the number of shares of IAC Common Stock subject to such IAC Option immediately prior to the Effective Time by (2) the Interval Factor, and (B) the per share exercise price of such Interval Option, rounded up to the nearest whole cent, shall be equal to the quotient obtained by dividing (1) the per share exercise price of such IAC Option immediately prior to the Effective Time by (2) the Interval Ratio (this clause (iii) shall not apply if IAC does not distribute shares of Interval Common Stock on the Distribution Date);

(iv) (A) the number of shares of HSN Common Stock subject to such HSN Option, rounded down to the nearest whole share, shall be equal to the product obtained by multiplying (1) the number of shares of IAC Common Stock subject to such IAC Option immediately prior to the Effective Time by (2) the HSN Factor, and (B) the per share exercise price of such HSN Option, rounded up to the nearest whole cent, shall be equal to the quotient obtained by dividing (1) the per share exercise price of such IAC Option immediately prior to the Effective Time by (2) the HSN Ratio (this clause (iv) shall not apply if IAC does not distribute shares of HSN Common Stock on the Distribution Date); and

(v) (A) the number of shares of Tree Common Stock subject to such Tree Option, rounded down to the nearest whole share, shall be equal to the product obtained by multiplying (1) the number of shares of IAC Common Stock subject to such IAC Option immediately prior to the Effective Time by (2) the Tree Factor, and (B) the per share exercise price of such Tree Option, rounded up to the nearest whole cent, shall be equal to the quotient obtained by dividing (1) the per share exercise price of such IAC Option immediately prior to the Effective Time by (2) the Tree Ratio (this clause (v) shall not apply if IAC does not distribute shares of Tree Common Stock on the Distribution Date);

provided, however, the exercise price, the number of shares of IAC Common Stock, TM Common Stock, Interval Common Stock, HSN Common Stock and Tree Common Stock subject to such options and the terms and conditions of exercise of such options shall be determined in a manner consistent with the requirements of Section 409A of the Code; provided, further, that, in the case of any IAC Option to which Section 421 of the Code applies by reason of its qualification under Section 422 of the Code as of immediately prior to the Effective Time, the exercise price, the number of shares of IAC Common Stock, TM Common Stock, Interval Common Stock, HSN Common Stock and Tree Common Stock subject to such option and the terms and conditions of exercise of such option shall be determined in a manner consistent with the requirements of Section 424(a) of the Code.

(b) IAC Options Held by IAC Employees and Former IAC Employees Granted on or after January 1, 2008 As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, each IAC Option held by an IAC Employee or a Former IAC Employee granted on or after January 1, 2008, whether vested or unvested, that is outstanding as of the Effective Time shall be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such IAC Option immediately prior to the Effective Time, subject to the following adjustments which shall apply from and after the Effective Time:

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(i) the number of shares of IAC Common Stock subject to such IAC Option, rounded down to the nearest whole share, shall be equal to the product of (A) the number of shares of IAC Common Stock subject to such IAC Option immediately prior to the Effective Time and (B) the IAC Ratio and (ii) the per share exercise price of such IAC Option, rounded up to the nearest whole cent, shall be equal to the quotient obtained by dividing (A) the per share exercise price of such IAC Option immediately prior to the Effective Time by (B) the IAC Ratio; provided, however, the exercise price, the number of shares of IAC Common Stock subject to such option and the terms and conditions of exercise of such option shall be determined in a manner consistent with the requirements of Section 409A of the Code; provided, further, that, in the case of any IAC Option to which Section 421 of the Code applies by reason of its qualification under Section 422 of the Code as of immediately prior to the Effective Time, the exercise price, the number of shares of IAC Common Stock subject to such option and the terms and conditions of exercise of such option shall be determined in a manner consistent with the

requirements of Section 424(a) of the Code.

(c) IAC Options Held by TM Employees and Former TM Employees Granted on or after January 1, 2008 As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, each IAC Option held by a TM Employee or Former TM Employee granted on or after January 1, 2008, whether vested or unvested, that is outstanding as of the Effective Time shall be converted at the Effective Time into a TM Option and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such IAC Option immediately prior to the Effective Time, subject to the following adjustments which shall apply from and after the Effective Time: (i) the number of shares of TM Common Stock subject to such Option, rounded down to the nearest whole share, shall be equal to the product of (A) the number of shares of IAC Common Stock subject to such IAC Option immediately prior to the Effective Time and (B) the TM Ratio and (ii) the per share exercise price of such TM Option, rounded up to the nearest whole cent, shall be equal to the quotient obtained by dividing (A) the per share exercise price of such IAC Option immediately prior to the Effective Time by (B) the TM Ratio; provided, however, the exercise price, the number of shares of TM Common Stock subject to such option and the terms and conditions of exercise of such option shall be determined in a manner consistent with the requirements of Section 409A of the Code; provided, further, that, in the case of any IAC Option to which Section 421 of the Code applies by reason of its qualification under Section 422 of the Code as of the Effective Time, the exercise price, the number of shares of TM Common Stock subject to such option and the terms and conditions of exercise of such option shall be determined in a manner consistent with the requirements of Section 424(a) of the Code. This clause (c) shall not apply if IAC does not distribute shares of TM Common Stock on the Distribution Date.

(d) IAC Options Held by Interval Employees and Former Interval Employees Granted on or after January 1, 2008 As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, each IAC Option held by an Interval Employee or Former Interval Employee granted on or after January 1, 2008, whether vested or unvested, that is outstanding as of the Effective Time shall be converted at the Effective Time into an Interval Option and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such IAC Option immediately prior to the Effective Time, subject to the following adjustments which shall apply from and after the Effective Time: (i) the number of shares of Interval Common Stock subject to such Option, rounded down to the nearest whole share, shall be equal to the product of (A) the number of shares of IAC Common Stock subject to such IAC Option immediately prior to the Effective Time and (B) the Interval Ratio and (ii) the per share exercise price of such Interval Option, rounded up

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to the nearest whole cent, shall be equal to the quotient obtained by dividing (A) the per share exercise price of such IAC Option immediately prior to the Effective Time by (B) the Interval Ratio; provided, however, the exercise price, the number of shares of Interval Common Stock subject to such option and the terms and conditions of exercise of such option shall be determined in a manner consistent with the requirements of Section 409A of the Code; provided, further, that, in the case of any IAC Option to which Section 421 of the Code applies by reason of its qualification under Section 422 of the Code as of the Effective Time, the exercise price, the number of shares of Interval Common Stock subject to such option and the terms and conditions of exercise of such option shall be determined in a manner consistent with the requirements of Section 424(a) of the Code. This clause (d) shall not apply if IAC does not distribute shares of Interval Common Stock on the Distribution Date.

(e) IAC Options Held by HSN Employees and Former HSN Employees Granted on or after January 1, 2008 As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, each IAC Option held by a HSN Employee or Former HSN Employee granted on or after January 1, 2008, whether vested or unvested, that is outstanding as of the Effective Time shall be converted at the Effective Time into a HSN Option and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such IAC Option immediately prior to the Effective Time, subject to the following adjustments which shall apply from and after the Effective Time: (i) the number of shares of HSN Common Stock subject to such Option, rounded down to the nearest whole share, shall be equal to the product of (A) the number of shares of IAC Common Stock subject to such IAC Option immediately prior to the Effective Time and (B) the HSN Ratio and (ii) the per share exercise price of such HSN Option, rounded up to the nearest whole cent, shall be equal to the quotient obtained by dividing (A) the per share exercise price of such IAC Option immediately prior to the Effective Time by (B) the HSN Ratio; provided, however, the exercise price, the number of shares of HSN Common Stock subject to such option and the terms and conditions of exercise of such option shall be determined in a manner consistent with the requirements of Section 409A of the Code; provided, further, that, in the case of any IAC Option to which Section 421 of the Code applies by reason of its qualification under Section 422 of the Code as of the Effective Time, the exercise price, the number of shares of HSN Common Stock subject to such option and the terms and conditions of exercise of such option shall be determined in a manner consistent with the requirements of Section 424(a) of the Code. This clause (e) shall not apply if IAC does not distribute shares of HSN Common Stock on the Distribution Date.

(f) IAC Options Held by Tree Employees and Former Tree Employees Granted on or after January 1, 2008 As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, each IAC Option held by a Tree Employee or Former Tree Employee granted on or after January 1, 2008, whether vested or unvested, that is outstanding as of the Effective Time shall be converted at the Effective Time into a Tree Option and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such IAC Option immediately prior to the Effective Time, subject to the following adjustments which shall apply from and after the Effective Time: (i) the number of shares of Tree Common Stock subject to such Option, rounded down to the nearest whole share, shall be equal to the product of (A) the number of shares of IAC Common Stock subject to such IAC Option immediately prior to the Effective Time and (B) the Tree Ratio and (ii) the per share exercise price of such Tree Option, rounded up to the nearest whole cent, shall be equal to the quotient obtained by dividing (A) the per share exercise price of such IAC Option immediately prior to the Effective Time by (B) the Tree

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Ratio; provided, however, the exercise price, the number of shares of Tree Common Stock subject to such option and the terms and conditions of exercise of such option shall be determined in a manner consistent with the requirements of Section 409A of the Code; provided, further, that, in the case of any IAC Option to which Section 421 of the Code applies by reason of its qualification under Section 422 of the Code as of the Effective Time, the exercise price, the number of shares of Tree Common Stock subject to such option and the terms and conditions of exercise of such option shall be determined in a manner consistent with the requirements of Section 424(a) of the Code. This clause (f) shall not apply if IAC does not distribute shares of Tree Common Stock on the Distribution Date.

(g) IAC Restricted Stock Units.

(i) Conversion of Growth Share Awards. IAC has awarded IAC Restricted Stock Units that may vest from 0% to 200% of the IAC Restricted Stock Units granted depending upon performance of IAC (the "Growth Share Awards"). As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, prior to the Effective Time and prior to any other action contemplated by this Section 5.3(g), the Growth Share Awards shall be amended such that the number of IAC Restricted Stock Units subject to each Growth Share Award shall be fixed at 100% (target) of the IAC Restricted Stock Units subject to the initial Growth Share Awards (there will be no upward or downward variability and the balance of the IAC Restricted Stock Units subject to the initial Growth Share Award shall be forfeited), the vesting of such IAC Restricted Stock Units shall cease to be subject to satisfaction of performance goals (subject to the last sentence of this Section 5.3(g)(i)), the IAC Restricted Stock Units shall Cliff Vest on the three-year anniversary of the initial grant date of such Growth Share Award and the IAC Restricted Stock Units subject to each Growth Share Award shall otherwise remain subject to the same terms and conditions, subject to any further adjustments described in this Section 5.3(g). The vesting of Growth Share Awards intended to satisfy the performance-based compensation exception under Section 162(m) of the Code will remain subject to applicable performance goals adopted for purposes of Section 162(m) of the Code.

(ii) Accelerated Vesting and Settlement of Certain IAC Restricted Stock Units As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, (I) all IAC Restricted Stock Units (x) awarded prior to August 8, 2005 or (y) awarded on or after August 8, 2005, but prior to January 1, 2008, and scheduled to vest on or before February 28, 2009, and (II) all PV IAC Restricted Stock Units (as defined below) held by award

holders with respect to whom the Committee determines to provide for accelerated vesting on the Distribution Date (clauses (I) and (II) together, "Accelerated RSUs");

(A) subject to the proviso below, with respect to the Accelerated RSUs listed on Schedule I, such Accelerated RSUs will vest on the Distribution Date and be settled on January 2, 2009, such that on January 2, 2009, for each share of IAC Common Stock underlying any such award immediately prior to the Effective Time, the holder of such award shall be entitled to receive (subject to application of Section 5.3(g)(x) below): (1) a number of shares of IAC Common Stock, rounded up to the nearest whole share, equal to the number of shares of IAC Common Stock to which the holder would be entitled if the holder held the shares of IAC Common Stock underlying such IAC Restricted Stock Units immediately prior to the Effective Time ("Delayed IAC Common Stock"); (2) a number of shares of TM Common Stock, rounded up to the nearest whole share, equal to the number of

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shares of TM Common Stock to which the holder would be entitled if the holder held the shares of IAC Common Stock underlying such IAC Restricted Stock Units immediately prior to the Effective Time ("Delayed TM Common Stock") (this clause (2) shall not apply if IAC does not distribute shares of TM Common Stock on the Distribution Date); (3) a number of shares of Interval Common Stock, rounded up to the nearest whole share, equal to the number of shares of Interval Common Stock to which the holder would be entitled if the holder held the shares of IAC Common Stock underlying such IAC Restricted Stock Units immediately prior to the Effective Time ("Delayed Interval Common Stock") (this clause (3) shall not apply if IAC does not distribute shares of Interval Common Stock on the Distribution Date); (4) a number of shares of HSN Common Stock, rounded up to the nearest whole share, equal to the number of shares of HSN Common Stock to which the holder would be entitled if the holder held the shares of IAC Common Stock underlying such IAC Restricted Stock Units immediately prior to the Effective Time ("Delayed HSN Common Stock") (this clause (4) shall not apply if IAC does not distribute shares of HSN Common Stock on the Distribution Date); and (5) a number of shares of Tree Common Stock, rounded up to the nearest whole share, equal to the number of shares of Tree Common Stock to which the holder would be entitled if the holder held the shares of IAC Common Stock underlying such IAC Restricted Stock Units immediately prior to the Effective Time ("Delayed Tree Common Stock," and together with Delayed IAC Common Stock, Delayed TM Common Stock, Delayed Interval Common Stock and Delayed HSN Common Stock, Delayed Common Stock") (this clause (5) shall not apply if IAC does not distribute shares of Tree Common Stock on the Distribution Date) provided, however, that immediately prior to the Effective Time, with respect to each individual holding IAC Restricted Stock Units subject to this Section 5.3(g)(ii), IAC shall settle a number of IAC Restricted Stock Units (and withhold the corresponding number of shares of IAC Common Stock underlying such IAC Restricted Stock Units) sufficient to satisfy (x) any tax payable by such holder under the Federal Insurance Contributions Act ("FICA") by virtue of the operation of this Section 5.3(b)(ii) (the "FICA Amount"), and (y) applicable income tax on wages imposed under Section 3401 of the Code or the corresponding withholding provisions of applicable state, local or foreign tax laws as a result of the payment of the FICA Amount, and to pay the additional income tax at source on wages attributable to the pyramiding Code Section 3401 wages and taxes; provided, further, however, that any fractional amounts remaining after payment of the foregoing shall be converted into cash and shall accrue interest at the applicable federal rate provided for in Section 7872(f)(2)(A) of the Code and shall be payable by IAC on January 2, 2009;

(B) with respect to any holder whose Accelerated RSUs are not subject to Tax in the United States and are not subject to Section 409A of the Code, such holder's Accelerated RSUs will vest immediately prior to the Effective Time and be settled in cash in accordance with IAC's customary practices applicable to such Exempt Holder; and

(C) with respect to all other Accelerated RSUs not addressed in clause (A) or clause (B) above, such Accelerated RSUs will vest immediately prior to the Effective Time and be settled as soon as reasonably practicable following the Effective Time, such that for each share of IAC Common Stock underlying any such award immediately prior to the Effective Time (less a number of shares of IAC Common Stock withheld to satisfy any tax withholding obligations with respect to the vesting and settlement of such IAC Restricted Stock Units, such withholding based on the value of a share of IAC Common Stock trading "regular way with due bills"),

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IAC will deliver or cause to be delivered: (1) a number of shares of IAC Common Stock, rounded up to the nearest whole share, equal to the number of shares of IAC Common Stock to which the holder would be entitled if the holder held the shares of IAC Common Stock underlying such IAC Restricted Stock Units immediately prior to the Effective Time; (2) a number of shares of TM Common Stock, rounded up to the nearest whole share, equal to the number of shares of TM Common Stock to which the holder would be entitled if the holder held the shares of IAC Common Stock underlying such IAC Restricted Stock Units immediately prior to the Effective Time (this clause (2) shall not apply if IAC does not distribute shares of TM Common Stock on the Distribution Date); (3) a number of shares of Interval Common Stock, rounded up to the nearest whole share, equal to the number of shares of Interval Common Stock to which the holder would be entitled if the holder held the shares of IAC Common Stock underlying such IAC Restricted Stock Units immediately prior to the Effective Time (this clause (3) shall not apply if IAC does not distribute shares of Interval Common Stock on the Distribution Date); (4) a number of shares of HSN Common Stock, rounded up to the nearest whole share, equal to the number of shares of HSN Common Stock to which the holder would be entitled if the holder held the shares of IAC Common Stock underlying such IAC Restricted Stock Units immediately prior to the Effective Time (this clause (4) shall not apply if IAC does not distribute shares of HSN Common Stock on the Distribution Date); and (5) a number of shares of Tree Common Stock, rounded up to the nearest whole share, equal to the number of shares of Tree Common Stock to which the holder would be entitled if the holder held the shares of IAC Common Stock underlying such IAC Restricted Stock Units immediately prior to the Effective Time (this clause (5) shall not apply if IAC does not distribute shares of Tree Common Stock on the Distribution Date).

(iii) Treatment of Certain Cliff Vesting IAC Restricted Stock Unit Awards Scheduled to Vest After February 28, 2009 As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, for each Cliff Vesting IAC Restricted Stock Unit Award granted prior to January 1, 2008 and scheduled to vest after February 28, 2009 (including the Growth Share Awards), with respect to such number of IAC Restricted Stock Units (rounded up to the nearest whole share) (the "PV IAC Restricted Stock Units") that would have vested on or before February 28, 2009 if the award had been an annual installment vesting award (e.g., 60% of a 5-year cliff-vesting award granted on February 1 of 2006), for all award holders (other than award holders with respect to whom the Committee determines to provide for accelerated vesting as contemplated by clause (ii) above), the PV IAC Restricted Stock Units held as of immediately prior to the Effective Time shall be converted at the Effective Time into:

(A) IAC Restricted Stock Units, and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such PV IAC Restricted Stock Unit immediately prior to the Effective Time, subject to the following adjustment which shall apply from and after the Effective Time: the number of shares of IAC Common Stock covered by such IAC Restricted Stock Units held by the participant, as applicable, rounded up to the nearest whole share, shall be equal to the number of shares of IAC Common Stock to which the holder of the PV IAC Restricted Stock Units would be entitled had the PV IAC Restricted Stock Units represented actual shares of IAC Common Stock immediately prior to the Effective Time;

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(B) TM Restricted Stock Units, and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such PV IAC Restricted Stock Units immediately prior to the Effective Time, subject to the following adjustment which shall apply from and after the Effective Time: the number of shares of TM Common Stock covered by such TM Restricted Stock Units



held by the participant, as applicable, rounded up to the nearest whole share, shall be equal to the number of shares of TM Common Stock to which the holder of the PV IAC Restricted Stock Units would be entitled had the PV IAC Restricted Stock Units represented actual shares of IAC Common Stock immediately prior to the Effective Time (this clause (B) shall not apply if IAC does not distribute shares of TM Common Stock on the Distribution Date);

(C) Interval Restricted Stock Units, and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such PV IAC Restricted Stock Units immediately prior to the Effective Time, subject to the following adjustment which shall apply from and after the Effective Time: the number of shares of Interval Common Stock covered by such Interval Restricted Stock Units held by the participant, as applicable, rounded up to the nearest whole share, shall be equal to the number of shares of Interval Common Stock to which the holder of the PV IAC Restricted Stock Units would be entitled had the PV IAC Restricted Stock Units represented actual shares of IAC Common Stock immediately prior to the Effective Time (this clause (C) shall not apply if IAC does not distribute shares of Interval Common Stock on the Distribution Date);

(D) HSN Restricted Stock Units, and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such PV IAC Restricted Stock Units immediately prior to the Effective Time, subject to the following adjustment which shall apply from and after the Effective Time: the number of shares of HSN Common Stock covered by such HSN Restricted Stock Units held by the participant, as applicable, rounded up to the nearest whole share, shall be equal to the number of shares of HSN Common Stock to which the holder of the PV IAC Restricted Stock Units would be entitled had the PV IAC Restricted Stock Units represented actual shares of IAC Common Stock immediately prior to the Effective Time (this clause (D) shall not apply if IAC does not distribute shares of HSN Common Stock on the Distribution Date); and

(E) Tree Restricted Stock Units, and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such PV IAC Restricted Stock Units immediately prior to the Effective Time, subject to the following adjustment which shall apply from and after the Effective Time: the number of shares of Tree Common Stock covered by such Tree Restricted Stock Units held by the participant, as applicable, rounded up to the nearest whole share, shall be equal to the number of shares of Tree Common Stock to which the holder of the PV IAC Restricted Stock Units would be entitled had the PV IAC Restricted Stock Units represented actual shares of IAC Common Stock immediately prior to the Effective Time (this clause (E) shall not apply if IAC does not distribute shares of Tree Common Stock on the Distribution Date).

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(iv) Other IAC Restricted Stock Units Held by IAC Employees and Former IAC Employees As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, the IAC Restricted Stock Units held by an IAC Employee or a Former IAC Employee (other than those IAC Restricted Stock Units converted pursuant to Section 5.3(g)(ii) or Section 5.3(g)(iii)) shall be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such IAC Restricted Stock Units immediately prior to the Effective Time, subject to the following adjustment which shall apply from and after the Effective Time: the number of shares of IAC Common Stock covered by such IAC Restricted Stock Units, rounded up to the nearest whole share, shall be equal to the product of (A) the number of shares of IAC Common Stock covered by such IAC Restricted Stock Units immediately prior to the Effective Time and (B) the IAC Ratio.

(v) Other IAC Restricted Stock Units Held by TM Employees and Former TM Employees As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, the IAC Restricted Stock Units held by a TM Employee or a Former TM Employee as of the Effective Time (other than those IAC Restricted Stock Units converted pursuant to Section 5.3(g)(ii) or Section 5.3(g)(iii)) shall be converted at the Effective Time into TM Restricted Stock Units, and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such IAC Restricted Stock Units immediately prior to the Effective Time, subject to the following adjustment which shall apply from and after the Effective Time: the number of shares of TM Common Stock covered by such TM Restricted Stock Units held by the participant, as applicable, rounded up to the nearest whole share, shall be equal to the product of (A) the number of shares of IAC Common Stock covered by such IAC Restricted Stock Units immediately prior to the Effective Time and (B) the TM Ratio. This clause (v) shall not apply if IAC does not distribute shares of TM Common Stock on the Distribution Date.

(vi) Other IAC Restricted Stock Units Held by Interval Employees and Former Interval Employees As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, the IAC Restricted Stock Units held by an Interval Employee or a Former Interval Employee as of the Effective Time (other than those IAC Restricted Stock Units converted pursuant to Section 5.3(g)(ii) or Section 5.3(g)(iii)) shall be converted at the Effective Time into Interval Restricted Stock Units, and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such IAC Restricted Stock Units immediately prior to the Effective Time, subject to the following adjustment which shall apply from and after the Effective Time: the number of shares of Interval Common Stock covered by such Interval Restricted Stock Units held by the participant, as applicable, rounded up to the nearest whole share, shall be equal to the product of (A) the number of shares of IAC Common Stock covered by such IAC Restricted Stock Units immediately prior to the Effective Time and (B) the Interval Ratio. This clause (vi) shall not apply if IAC does not distribute shares of Interval Common Stock on the Distribution Date.

(vii) Other IAC Restricted Stock Units Held by HSN Employees and Former HSN Employees As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, the IAC Restricted Stock Units held by a HSN Employee or a Former HSN Employee as of the Effective Time (other

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than those IAC Restricted Stock Units converted pursuant to Section 5.3(g)(ii) or Section 5.3(g)(iii)) shall be converted at the Effective Time into HSN Restricted Stock Units, and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such IAC Restricted Stock Units immediately prior to the Effective Time, subject to the following adjustment which shall apply from and after the Effective Time: the number of shares of HSN Common Stock covered by such HSN Restricted Stock Units held by the participant, as applicable, rounded up to the nearest whole share, shall be equal to the product of (A) the number of shares of IAC Common Stock covered by such IAC Restricted Stock Units immediately prior to the Effective Time and (B) the HSN Ratio. This clause (vii) shall not apply if IAC does not distribute shares of HSN Common Stock at the Effective Time.

(viii) Other IAC Restricted Stock Units Held by Tree Employees and Former Tree Employees As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, the IAC Restricted Stock Units held by a Tree Employee or a Former Tree Employee as of the Effective Time (other than those IAC Restricted Stock Units converted pursuant to Section 5.3(g)(ii) or Section 5.3(g)(iii)) shall be converted at the Effective Time into Tree Restricted Stock Units, and shall otherwise be subject to the same terms and conditions (including with respect to vesting) after the Effective Time as the terms and conditions applicable to such IAC Restricted Stock Units immediately prior to the Effective Time, subject to the following adjustment which shall apply from and after the Effective Time: the number of shares of Tree Common Stock covered by such Tree Restricted Stock Units held by the participant, as applicable, rounded up to the nearest whole share, shall be equal to the product of (A) the number of shares of IAC Common Stock covered by such IAC Restricted Stock Units immediately prior to the Effective Time and (B) the Tree Ratio. This clause (viii) shall not apply if IAC does not distribute shares of Tree Common Stock at the Effective Time.

(ix) IAC Restricted Stock Units Held by Specified Individuals As determined by the Committee pursuant to its authority under the applicable IAC Long-Term Incentive Plan, notwithstanding anything to the contrary set forth in this Section 5.3(g), the IAC Restricted Stock Units set forth on **Exhibit B** to this Agreement shall be treated in the manner set forth on **Exhibit B** to this Agreement.

(x) Settlement of Delayed Common Stock; Delayed Common Stock Diversification Arrangement Each holder's Delayed Common Stock will be recorded in a book entry account administered by Deloitte LLP and each such book entry account will be subdivided among each Party's Delayed Common Stock and further subdivided between stock settled accounts and cash settled accounts. Each holder of Delayed Common Stock will have the ability to elect to convert any of such holder's Delayed Common Stock to a cash settled account on not more than three occasions with respect to each Party's Delayed Common Stock based on (1) the closing trading price of the applicable Delayed Common Stock on the date of the holder's election if the holder makes an election during trading hours or (2) the closing trading price of the applicable Delayed Common Stock during the next trading session immediately following the holder's election if the holder makes an election outside of trading hours (elections shall be made solely with respect to whole shares of Delayed Common Stock) (or based on such other methodology as IAC shall determine in its sole discretion and communicate to holders of Delayed Common Stock). Elections with respect to this diversification arrangement shall be irrevocable. Cash settled accounts will accrue interest at 2.5% per annum. Individuals will not be entitled to

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move amounts from cash settled accounts into stock settled accounts. Accounts will be frozen during the terdays immediately following the Separation and from November 30, 2008 through January 2, 2009. On January 2, 2009, each Party will settle all cash and stock denominated accounts relating to such Party's Delayed Common Stock using shares of such Party's common stock with respect to stock denominated accounts and U.S. dollars with respect to cash denominated accounts and such settlement obligation shall be a Liability solely of such Party and no other Party to this Agreement. IAC shall have sole discretion to modify the diversification arrangement.

(h) IAC Restricted Stock. Shares of IAC Restricted Stock that are outstanding immediately prior to the Effective Time shall be treated in the Separation in the same manner as other outstanding shares of IAC Common Stock are treated in the Separation and will otherwise be subject to the same terms and conditions (including vesting conditions) applicable to such shares of IAC Restricted Stock immediately prior to the Separation.

(i) Foreign Grants/Awards. To the extent that the IAC Awards or any of the IAC Options are granted to non-U.S. employees under any domestic or foreign equity-based incentive program sponsored by an IAC Entity, IAC, TM, Interval, HSN and Tree shall use their commercially reasonable efforts to preserve, at and after the Effective Time, the value and tax treatment accorded to such IAC Options and such IAC Awards granted to non-U.S. employees under any domestic or foreign equity-based incentive program sponsored by an IAC Entity.

(j) Miscellaneous Option and Other Award Terms

(i) After the Distribution Date, (A) IAC Options and IAC Awards adjusted pursuant to Section 5.3, regardless of by whom held, shall be settled by IAC pursuant to the terms of the applicable IAC Long-Term Incentive Plan, (B) TM Options and TM Awards, regardless of by whom held, shall be settled by TM pursuant to the terms of the TM Long-Term Incentive Plan, (C) Interval Options and Interval Awards, regardless of by whom held, shall be settled by Interval pursuant to the terms of the Interval Long-Term Incentive Plan, (D) HSN Options and HSN Awards, regardless of by whom held, shall be settled by HSN pursuant to the terms of the HSN Long-Term Incentive Plan, and (E) Tree Options and Tree Awards, regardless of by whom held, shall be settled by Tree pursuant to the terms of the Tree Long-Term Incentive Plan.

(ii) Accordingly, it is intended that, (A) to the extent of the issuance of such TM Options and TM Awards in connection with the adjustment provisions of this Section 5.3, the TM Long-Term Incentive Plan shall be considered a successor to each of the IAC Long-Term Incentive Plans and to have assumed the obligations of the applicable IAC Long-Term Incentive Plan to make the adjustment of the IAC Options and IAC Awards as set forth in this Section 5.3, (B) to the extent of the issuance of such Interval Options and Interval Awards in connection with the adjustment provisions of this Section 5.3, the Interval Long-Term Incentive Plan shall be considered a successor to each of the IAC Long-Term Incentive Plans and to have assumed the obligations of the applicable IAC Long-Term Incentive Plan to make the adjustment of the IAC Options and IAC Awards as set forth in this Section 5.3, (C) to the extent of the issuance of such HSN Options and HSN Awards in connection with the adjustment provisions of this Section 5.3, the HSN Long-Term Incentive Plan shall be considered a successor to each of the IAC Long-Term

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Incentive Plans and to have assumed the obligations of the applicable IAC Long-Term Incentive Plan to make the adjustment of the IAC Options and IAC Awards as set forth in this Section 5.3 and (D) to the extent of the issuance of such Tree Options and Tree Awards in connection with the adjustment provisions of this Section 5.3, the Tree Long-Term Incentive Plan shall be considered a successor to each of the IAC Long-Term Incentive Plans and to have assumed the obligations of the applicable IAC Long-Term Incentive Plan to make the adjustment of the IAC Options and IAC Awards as set forth in this Section 5.3.

(iii) (A) The Effective Time shall not constitute a termination of employment for any TM Employees for purposes of any IAC Option or IAC Award, any Interval Option or Interval Award, any HSN Option or HSN Award or any Tree Option or Tree Award and, except as otherwise provided in this Agreement, with respect to grants adjusted pursuant to this Section 5.3, employment with TM shall be treated as employment with IAC with respect to IAC Options or IAC Awards held by TM Employees, employment with TM shall be treated as employment with Interval with respect to Interval Options or Interval Awards held by TM Employees, employment with TM shall be treated as employment with HSN with respect to HSN Options and HSN Awards held by TM Employees and employment with TM shall be treated as employment with Tree with respect to Tree Options and Tree Awards held by TM Employees.

(B) The Effective Time shall not constitute a termination of employment for any Interval Employees for purposes of any IAC Option or IAC Award, any TM Option or TM Award, any HSN Option or HSN Award or any Tree Option or Tree Award and, except as otherwise provided in this Agreement, with respect to grants adjusted pursuant to this Section 5.3, employment with Interval shall be treated as employment with IAC with respect to IAC Options or IAC Awards held by Interval Employees, employment with Interval shall be treated as employment with TM with respect to TM Options or TM Awards held by Interval Employees, employment with Interval shall be treated as employment with HSN with respect to HSN Options and HSN Awards held by Interval Employees and employment with Interval shall be treated as employment with Tree with respect to Tree Options and Tree Awards held by Interval Employees.

(C) The Effective Time shall not constitute a termination of employment for any HSN Employees for purposes of any IAC Option or IAC Award, any TM Option or TM Award, any Interval Option or Interval Award or any Tree Option or Tree Award and, except as otherwise provided in this Agreement, with respect to grants adjusted pursuant to this Section 5.3, employment with HSN shall be treated as employment with IAC with respect to IAC Options or IAC Awards held by HSN Employees, employment with HSN shall be treated as employment with TM with respect to TM Options or TM Awards held by HSN Employees, employment with HSN shall be treated as employment with Interval with respect to Interval Options and Interval Awards held by HSN Employees and employment with HSN shall be treated as employment with Tree with respect to Tree Options and Tree Awards held by HSN Employees.

(D) The Effective Time shall not constitute a termination of employment for any Tree Employees for purposes of any IAC Option or IAC Award, any TM Option or TM Award, any Interval Option or Interval Award or any Tree Option or Tree Award and, except as otherwise provided in this Agreement, with

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respect to grants adjusted pursuant to this Section 5.3, employment with Tree shall be treated as employment with IAC with respect to IAC Options or IAC Awards held by Tree Employees, employment with Tree shall be treated as employment with TM with respect to TM Options or TM Awards held by Tree Employees, employment with Tree shall be treated as employment with Interval with respect to Interval Options and Interval Awards held by Tree Employees and employment with Tree shall be treated as employment with HSN with respect to HSN Options and HSN Awards held by Tree Employees.

(E) Except as otherwise provided in this Agreement, with respect to grants adjusted pursuant to this Section 5.3, employment with IAC shall be treated as employment with TM with respect to TM Options or TM Awards held by IAC Employees, employment with IAC shall be treated as employment with Interval with respect to Interval Options and Interval Awards held by IAC Employees, employment with IAC shall be treated as employment with HSN with respect to HSN Options and HSN Awards held by IAC Employees and employment with IAC shall be treated as employment with Tree with respect to Tree Options and Tree Awards held by IAC Employees.

(k) Waiting Period for Exercisability of Options and Grant of Options and Awards The IAC Options, TM Options, Interval Options, HSN Options and Tree Options shall not be exercisable during a period beginning on a date prior to the Distribution Date determined by IAC in its sole discretion, and continuing until the IAC Post-Separation Stock Value, the TM Stock Value, the Interval Stock Value, the HSN Stock Value and the Tree Stock Value are determined after the Effective Time, or such longer period as IAC, with respect to IAC Options, TM, with respect to TM Options, Interval, with respect to Interval Options, HSN, with respect to HSN Options and Tree, with respect to Tree Options, determines necessary to implement the provisions of this Section 5.3. The IAC Restricted Stock Units, TM Restricted Stock Units, Interval Restricted Stock Units, HSN Restricted Stock Units and Tree Restricted Stock Units shall not be settled during a period beginning on a date prior to the Distribution Date determined by IAC in its sole discretion, and continuing until the IAC Post-Separation Stock Value, the TM Stock Value, the Interval Stock Value, the HSN Stock Value and the Tree Stock Value are determined immediately after the Effective Time, or such longer period as IAC, with respect to IAC Restricted Stock Units, TM, with respect to TM Restricted Stock Units, Interval, with respect to Interval Restricted Stock Units, HSN, with respect to HSN Stock Units and Tree, with respect to Tree Stock Units, determines necessary to implement the provisions of this Section 5.3.

(l) Exercise of IAC Options after Distribution Record Date and prior to the Distribution Date; IAC RSUs that Vest after Distribution Record Date and prior to the Distribution Date.

(i) In the event that any holder exercises an IAC Option after the first Distribution Record Date (as defined in the Separation Agreement) and prior to the third Business Day immediately preceding the Distribution Date (option exercises will not be permitted during the three Business Days immediately preceding the Distribution Date), IAC will coordinate with Smith Barney to ensure that such holder exercises such IAC Option with respect to shares of IAC Common Stock trading “regular way with due bills.”

(ii) With respect to any individual that holds IAC Restricted Stock Units that vest after the first Distribution Record Date (as defined in the Separation

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Agreement) and prior to the Distribution Date, (1) IAC will deliver (or cause to be delivered) to such holder shares of IAC Common Stock in settlement of such IAC Restricted Stock Units due to such holder upon vesting, giving effect to the withholding of shares of IAC Common Stock to satisfy any tax withholding obligations with respect to the settlement of such IAC Restricted Stock Units, such withholding based on the value of a share of IAC Common Stock trading “regular way with due bills” (the number of shares, net of shares withheld to satisfy the tax withholding obligations, the “*Net RSU Shares*”) and (2) as soon as reasonably practicable following the Distribution Date, IAC will be obligated to deliver to such holder (x) the number of shares of SpinCo Common Stock with respect to each SpinCo (and any cash in lieu of fractional shares) that such holder would be entitled to receive if the holder owned the number of Net RSU Shares on the first Distribution Record Date (as defined in the Separation Agreement).

(m) Obligation to Deliver Shares. Except as provided in Section 5.3(l):

(i) The obligation to deliver shares of IAC Common Stock upon the exercise of IAC Stock Options or the settlement of IAC Restricted Stock Units shall be a Liability of IAC.

(ii) The obligation to deliver shares of TM Common Stock upon the exercise of TM Stock Options or the settlement of TM Restricted Stock Units shall be a Liability of TM.

(iii) The obligation to deliver shares of HSN Common Stock upon the exercise of HSN Stock Options or the settlement of HSN Restricted Stock Units shall be a Liability of HSN.

(iv) The obligation to deliver shares of Interval Common Stock upon the exercise of Interval Stock Options or the settlement of Interval Restricted Stock Units shall be a Liability of Interval.

(v) The obligation to deliver shares of Tree Common Stock upon the exercise of Tree Stock Options or the settlement of Tree Restricted Stock Units shall be a Liability of Tree.

(n) Equity and Bonus Compensation Agreement with Barry Diller. For the avoidance of doubt, Section 5 of the Equity and Bonus Compensation Agreement with Barry Diller shall be binding on IAC and each SpinCo to the extent that any payment or distribution by such Party to or for the benefit of Mr. Diller would be subject to the excise tax imposed by Section 4999 of the Code or any interest or penalties are incurred by Mr. Diller with respect to such excise tax.

(o) Abandonment. In the event that on or prior to the Distribution Date IAC abandons a Distribution (as defined in the Separation Agreement) with respect to one or more SpinCos, the adjustments set forth in this Section 5.3 will apply as described above except that there will be no conversion of IAC equity awards into equity awards of a SpinCo the shares of common stock of which IAC does not distribute and SpinCo Employees and Former SpinCo Employees of any such SpinCo will be treated as IAC Employees and Former IAC Employees, respectively, for purposes of such adjustments.

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(p) Restrictive Covenants.

(i) Following the Distribution Date, TM shall use commercially reasonable efforts to monitor the TM Employees and Former TM Employees to determine whether any such TM Employees or Former TM Employees have breached any of the restrictive covenants in the agreements evidencing the terms of their IAC Options and IAC Awards. As soon as practicable following TM’s reasonable belief that a TM Employee or Former TM Employee has breached any such covenant, TM shall provide IAC in writing with the name and address of such employee or former employee and a description of the breach that such employee or

former employee is believed to have committed. Notwithstanding the foregoing or anything in any agreement evidencing the terms of any IAC Options and IAC Awards or otherwise to the contrary, it shall not be a violation of any IAC non-competition or non-solicitation of clients or customers covenant for a TM Employee to engage in acts on behalf of TM or a TM Entity that are otherwise prohibited by the terms of such non-competition or non-solicitation of clients or customers covenants and it shall not be a violation of any TM non-competition or non-solicitation of clients or customers covenant for an IAC Employee to engage in acts on behalf of IAC or an IAC Entity that are otherwise prohibited by the terms of such non-competition or non-solicitation of clients or customers covenants. In addition, following the Effective Time, the restrictive covenants (including without limitation any proprietary rights agreements or confidential information covenants) to which any TM Employee or Former TM Employee are party shall run in favor of TM (and, to the extent relating to IAC, shall run in favor of IAC to the same extent that they ran in favor of IAC immediately prior to the Effective Time; provided, that the Effective Time shall be treated as a termination of employment from IAC for purposes of the duration of IAC's ability to enforce the restrictive covenant) and the restrictive covenants to which any IAC Employee or Former IAC Employee are party shall run in favor of IAC. Any employment agreement between IAC and a TM Employee or Former TM Employee shall as of the Effective Time be assigned by IAC to TM and assumed by TM.

(ii) Following the Distribution Date, Interval shall use commercially reasonable efforts to monitor the Interval Employees and Former Interval Employees to determine whether any such Interval Employees or Former Interval Employees have breached any of the restrictive covenants in the agreements evidencing the terms of their IAC Options and IAC Awards. As soon as practicable following Interval's reasonable belief that an Interval Employee or Former Interval Employee has breached any such covenant, Interval shall provide IAC in writing with the name and address of such employee or former employee and a description of the breach that such employee or former employee is believed to have committed. Notwithstanding the foregoing or anything in any agreement evidencing the terms of any IAC Options and IAC Awards or otherwise to the contrary, it shall not be a violation of any IAC non-competition or non-solicitation of clients or customers covenant for an Interval Employee to engage in acts on behalf of Interval or an Interval Entity that are otherwise prohibited by the terms of such non-competition or non-solicitation of clients or customers covenants and it shall not be a violation of any Interval non-competition or non-solicitation of clients or customers covenant for an IAC Employee to engage in acts on behalf of IAC or an IAC Entity that are otherwise prohibited by the terms of such non-competition or non-solicitation of clients or customers covenants. In addition, following the Effective Time, the restrictive covenants (including without limitation any proprietary rights agreements or confidential information covenants) to which any Interval Employee or Former Interval Employee are party shall run in favor of Interval (and, to the extent relating to IAC, shall run in favor of IAC to the same extent that they ran in favor of IAC

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immediately prior to the Effective Time; provided, that the Effective Time shall be treated as a termination of employment from IAC for purposes of the duration of IAC's ability to enforce the restrictive covenant) and the restrictive covenants to which any IAC Employee or Former IAC Employee are party shall run in favor of IAC. Any employment agreement between IAC and an Interval Employee or Former Interval Employee shall as of the Effective Time be assigned by IAC to Interval and assumed by Interval.

(iii) Following the Distribution Date, HSN shall use commercially reasonable efforts to monitor the HSN Employees and Former HSN Employees to determine whether any such HSN Employees or Former HSN Employees have breached any of the restrictive covenants in the agreements evidencing the terms of their IAC Options and IAC Awards. As soon as practicable following HSN's reasonable belief that an HSN Employee or Former HSN Employee has breached any such covenant, HSN shall provide IAC in writing with the name and address of such employee or former employee and a description of the breach that such employee or former employee is believed to have committed. Notwithstanding the foregoing or anything in any agreement evidencing the terms of any IAC Options and IAC Awards or otherwise to the contrary, it shall not be a violation of any IAC non-competition or non-solicitation of clients or customers covenant for an HSN Employee to engage in acts on behalf of HSN or an HSN Entity that are otherwise prohibited by the terms of such non-competition or non-solicitation of clients or customers covenants and it shall not be a violation of any HSN non-competition or non-solicitation of clients or customers covenant for an IAC Employee to engage in acts on behalf of IAC or an IAC Entity that are otherwise prohibited by the terms of such non-competition or non-solicitation of clients or customers covenants. In addition, following the Effective Time, the restrictive covenants (including without limitation any proprietary rights agreements or confidential information covenants) to which any HSN Employee or Former HSN Employee are party shall run in favor of HSN (and, to the extent relating to IAC, shall run in favor of IAC to the same extent that they ran in favor of IAC immediately prior to the Effective Time; provided, that the Effective Time shall be treated as a termination of employment from IAC for purposes of the duration of IAC's ability to enforce the restrictive covenant) and the restrictive covenants to which any IAC Employee or Former IAC Employee are party shall run in favor of IAC. Any employment agreement between IAC and an HSN Employee or Former HSN Employee shall as of the Effective Time be assigned by IAC to HSN and assumed by HSN.

(iv) Following the Distribution Date, Tree shall use commercially reasonable efforts to monitor the Tree Employees and Former Tree Employees to determine whether any such Tree Employees or Former Tree Employees have breached any of the restrictive covenants in the agreements evidencing the terms of their IAC Options and IAC Awards. As soon as practicable following Tree's reasonable belief that a Tree Employee or Former Tree Employee has breached any such covenant, Tree shall provide IAC in writing with the name and address of such employee or former employee and the name and a description of the breach that such employee or former employee is believed to have committed. Notwithstanding the foregoing or anything in any agreement evidencing the terms of any IAC Options and IAC Awards or otherwise to the contrary, it shall not be a violation of any IAC non-competition or

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non-solicitation of clients or customers covenant for a Tree Employee to engage in acts on behalf of Tree or a Tree Entity that are otherwise prohibited by the terms of such non-competition or non-solicitation of clients or customers covenants and it shall not be a violation of any Tree non-competition or non-solicitation of clients or customers covenant for an IAC Employee to engage in acts on behalf of IAC or an IAC Entity that are otherwise prohibited by the terms of such non-competition or non-solicitation of clients or customers covenants. In addition, following the Effective Time, the restrictive covenants (including without limitation any proprietary rights agreements or confidential information covenants) to which any Tree Employee or Former Tree Employee are party shall run in favor of Tree (and, to the extent relating to IAC, shall run in favor of IAC to the same extent that they ran in favor of IAC immediately prior to the Effective Time; provided, that the Effective Time shall be treated as a termination of employment from IAC for purposes of the duration of IAC's ability to enforce the restrictive covenant) and the restrictive covenants to which any IAC Employee or Former IAC Employee are party shall run in favor of IAC. Any employment agreement between IAC and a Tree Employee or Former Tree Employee shall as of the Effective Time be assigned by IAC to Tree and assumed by Tree.

#### 5.4 Registration Requirements.

(a) As soon as possible following the time as of which the Registration Statement (as defined in the Separation Agreement) is declared effective by the Securities and Exchange Commission but in any case before the Distribution Date, TM agrees that it shall file a Form S-8 Registration Statement and a Form S-3 Registration Statement with respect to and cause to be registered pursuant to the Securities Act of 1933, as amended, the shares of TM Common Stock authorized for issuance under the TM Long-Term Incentive Plan as required pursuant to such Act and any applicable rules or regulations thereunder, with such registration to be effective prior to the Distribution Date.

(b) As soon as possible following the time as of which the Registration Statement (as defined in the Separation Agreement) is declared effective by the Securities and Exchange Commission but in any case before the Distribution Date, Interval agrees that it shall file a Form S-8 Registration Statement and a Form S-3 Registration Statement with respect to and cause to be registered pursuant to the Securities Act of 1933, as amended, the shares of Interval Common Stock authorized for issuance under the Interval Long-Term Incentive Plan as required pursuant to such Act and any applicable rules or regulations thereunder, with such registration to be effective prior to the Distribution Date.

(c) As soon as possible following the time as of which the Registration Statement (as defined in the Separation Agreement) is declared effective by the Securities and Exchange Commission but in any case before the Distribution Date, HSN agrees that it shall file a Form S-8 Registration Statement and a Form S-3 Registration Statement with respect to and cause to be registered pursuant to the Securities Act of 1933, as amended, the shares of HSN Common Stock authorized for issuance under the HSN Long-Term Incentive Plan as required pursuant to such Act and any applicable rules or regulations thereunder, with such registration to be effective prior to the Distribution Date.

(d) As soon as possible following the time as of which the Registration Statement (as defined in the Separation Agreement) is declared effective by the Securities and Exchange Commission but in any case before the Distribution Date, Tree agrees that it shall file a Form S-8 Registration Statement and a Form S-3 Registration Statement with respect to and cause to be registered pursuant to the Securities Act of 1933, as amended, the shares of Tree Common Stock authorized for issuance under the Tree Long-Term Incentive Plan as required pursuant to such Act and any applicable rules or regulations thereunder, with such registration to be effective prior to the Distribution Date.

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(e) IAC agrees that, following the Distribution Date, it shall use reasonable efforts to continue to maintain a Form S-8 Registration Statement with respect to and cause to be registered pursuant to the Securities Act of 1933, as amended, the shares of IAC Common Stock authorized for issuance under the IAC Long-Term Incentive Plans as required pursuant to such Act and any applicable rules or regulations thereunder.

#### 5.5 Executive Deferred Compensation Plans

(a) Effective as of the Distribution Date, TM shall establish a deferred compensation plan (the "TM Deferred Compensation Plan") and a related rabbi trust (the "TM Rabbi Trust"), each of which is substantially identical to the IAC/InterActiveCorp Executive Deferred Compensation Plan ("IAC Deferred Compensation Plan") and the related rabbi trust for the IAC Deferred Compensation Plan (the "IAC Rabbi Trust"), to provide benefits to TM Employees and Former TM Employees from and after the Distribution Date who were participants in the IAC Deferred Compensation Plan as of immediately prior to the Distribution Date ("TM Participants"). All benefits under the IAC Deferred Compensation Plan with respect to TM Participants shall be assumed by TM and paid under the TM Deferred Compensation Plan. Effective on the Distribution Date or as soon as administratively practicable after the Distribution Date, IAC shall cause the trustee of the IAC Rabbi Trust to transfer an amount of assets from the IAC Rabbi Trust to the TM Rabbi Trust equal to the account balances of TM Participants as of the date of such transfer to fund the benefits of TM Participants under the TM Deferred Compensation Plan.

(b) Effective as of the Distribution Date, each Interval Employee and Former Interval Employee shall be deemed to have elected to receive a lump sum distribution of his or her accrued benefits under the IAC Deferred Compensation Plan in 2009 and shall be paid such benefits by IAC in 2009 in accordance with the terms of such plans.

(c) Effective as of the Distribution Date, HSN shall establish a deferred compensation plan (the "HSN Deferred Compensation Plan") that is substantially identical to the IAC Deferred Compensation Plan as of immediately prior to the Distribution Date to provide benefits to HSN Employees from and after the Distribution Date who were participants in the IAC Deferred Compensation Plan as of immediately prior to the Distribution Date and had made effective elections to defer compensation earned in 2008 ("Active HSN Participants"). Each Active HSN Participant and each other HSN Employee and Former HSN Employee shall be deemed to have elected to receive a lump sum distribution of his or her accrued benefits under the IAC Deferred Compensation Plan and HSN Deferred Compensation Plan in 2009 and shall be paid such benefits in 2009 in accordance with the terms of such plans. IAC shall be liable for any benefits accrued under the IAC Deferred Compensation Plan by any Active HSN Participant, other HSN Employee and Former HSN Employee prior to the Distribution Date and HSN shall be liable for any benefits accrued by Active HSN Participants after the Distribution Date. No portion of the IAC Rabbi Trust shall be transferred to HSN or any rabbi trust established by HSN or shall be used to pay the benefits of Active HSN Participants accrued after the Distribution Date.

(d) Effective as of the Distribution Date, Tree shall establish a deferred compensation plan (the "Tree Deferred Compensation Plan") and a related rabbi trust (the "Tree Rabbi Trust") (each of which is substantially identical to the IAC Deferred Compensation Plan and IAC Rabbi Trust) to provide benefits to Tree Employees and Former Tree Employees from and after the Distribution Date who were participants in the IAC Deferred Compensation Plan as of immediately prior to the Distribution Date ("Tree Participants"). All benefits under the IAC Deferred Compensation Plan with respect to Tree

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Participants shall be assumed by Tree and paid under the Tree Deferred Compensation Plan. Effective on the Distribution Date or as soon as administratively practicable after the Distribution Date, IAC shall cause the trustee of the IAC Rabbi Trust to transfer an amount of assets from the IAC Rabbi Trust to the Tree Rabbi Trust equal to the account balances of Tree Participants as of the date of such transfer to fund the benefits of Tree Participants under the Tree Deferred Compensation Plan.

#### 5.6 Severance

(a) A TM Employee shall not be deemed to have terminated employment for purposes of determining eligibility for severance benefits in connection with or in anticipation of the consummation of the transactions contemplated by the Separation Agreement. TM shall be solely responsible for all Liabilities in respect of all costs arising out of payments and benefits relating to the termination or alleged termination of any TM Employee or Former TM Employee's employment that occurs prior to, as a result of, in connection with or following the consummation of the transactions contemplated by the Separation Agreement, including any amounts required to be paid (including any payroll or other taxes), and the costs of providing benefits, under any applicable severance, separation, redundancy, termination or similar plan, program, practice, contract, agreement, law or regulation (such benefits to include any medical or other welfare benefits, outplacement benefits, accrued vacation, and taxes).

(b) An Interval Employee shall not be deemed to have terminated employment for purposes of determining eligibility for severance benefits in connection with or in anticipation of the consummation of the transactions contemplated by the Separation Agreement. Interval shall be solely responsible for all Liabilities in respect of all costs arising out of payments and benefits relating to the termination or alleged termination of any Interval Employee or Former Interval Employee's employment that occurs prior to, as a result of, in connection with or following the consummation of the transactions contemplated by the Separation Agreement, including any amounts required to be paid (including any payroll or other taxes), and the costs of providing benefits, under any applicable severance, separation, redundancy, termination or similar plan, program, practice, contract, agreement, law or regulation (such benefits to include any medical or other welfare benefits, outplacement benefits, accrued vacation, and taxes).

(c) An HSN Employee shall not be deemed to have terminated employment for purposes of determining eligibility for severance benefits in connection with or in anticipation of the consummation of the transactions contemplated by the Separation Agreement. HSN shall be solely responsible for all Liabilities in respect of all costs arising out of payments and benefits relating to the termination or alleged termination of any HSN Employee or Former HSN Employee's employment that occurs prior to, as a result of, in connection with or following the consummation of the transactions contemplated by the Separation Agreement, including any amounts required to be paid (including any payroll or other taxes), and the costs of providing benefits, under any applicable severance, separation, redundancy, termination or similar plan, program, practice, contract, agreement, law or regulation (such benefits to include any medical or other welfare benefits, outplacement benefits, accrued vacation, and taxes).

(d) A Tree Employee shall not be deemed to have terminated employment for purposes of determining eligibility for severance benefits in connection

Employee or Former Tree Employee's employment that occurs prior to, as a result of, in connection with or following the consummation of the transactions contemplated by the Separation Agreement, including any amounts required to be paid (including any payroll or other taxes), and the costs of providing benefits, under any applicable severance, separation, redundancy, termination or similar plan, program, practice, contract, agreement, law or regulation (such benefits to include any medical or other welfare benefits, outplacement benefits, accrued vacation, and taxes).

## ARTICLE VI GENERAL AND ADMINISTRATIVE

6.1 Sharing of Participant Information. IAC and each of the SpinCos shall share with one another, and IAC shall cause each other IAC Entity to share, TM shall cause each other TM Entity to share, Interval shall cause each other Interval Entity to share, HSN shall cause each other HSN Entity to share and Tree shall cause each other Tree Entity to share with one another and their respective agents and vendors (without obtaining releases) all participant information necessary for the efficient and accurate administration of each of the IAC Benefit Plans, the TM Benefit Plans, the Interval Benefit Plans, the HSN Benefit Plans and the Tree Benefit Plans. IAC, TM, Interval, HSN, Tree and their respective authorized agents shall, subject to applicable laws, be given reasonable and timely access to, and may make copies of, all information relating to the subjects of this Agreement in the custody of such other Party, to the extent necessary for such administration. Until December 31, 2008, all participant information shall be provided in the manner and medium applicable to Participating Companies in IAC Benefit Plans generally, and thereafter until December 31, 2009, all participant information shall be provided in a manner and medium as may be agreed to by IAC, TM, Interval, HSN and/or Tree, as applicable.

6.2 Reasonable Efforts/Cooperation. Each of the Parties hereto will use its commercially reasonable efforts to promptly take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations to consummate the transactions contemplated by this Agreement. Each of the Parties hereto shall cooperate fully on any issue relating to the transactions contemplated by this Agreement for which the other Party seeks a determination letter or private letter ruling from the Internal Revenue Service, an advisory opinion from the Department of Labor or any other filing (including, but not limited to, securities filings (remedial or otherwise)), consent or approval with respect to or by a governmental agency or authority in any jurisdiction in the United States or abroad.

6.3 No Third-Party Beneficiaries. This Agreement is solely for the benefit of the Parties and is not intended to confer upon any other Persons any rights or remedies hereunder. Except as expressly provided in this Agreement, nothing in this Agreement shall preclude IAC or any other IAC Entity, at any time after the Close of the Distribution Date, from amending, merging, modifying, terminating, eliminating, reducing, or otherwise altering in any respect any IAC Benefit Plan, any benefit under any Benefit Plan or any trust, insurance policy or funding vehicle related to any IAC Benefit Plan. Except as expressly provided in this Agreement, nothing in this Agreement shall preclude TM or any other TM Entity, at any time after the Close of the Distribution Date, from amending, merging, modifying, terminating, eliminating, reducing, or otherwise altering in any respect any TM Benefit Plan, any

benefit under any Benefit Plan or any trust, insurance policy or funding vehicle related to any TM Benefit Plan. Except as expressly provided in this Agreement, nothing in this Agreement shall preclude Interval or any other Interval Entity, at any time after the Close of the Distribution Date, from amending, merging, modifying, terminating, eliminating, reducing, or otherwise altering in any respect any Interval Benefit Plan, any benefit under any Benefit Plan or any trust, insurance policy or funding vehicle related to any Interval Benefit Plan. Except as expressly provided in this Agreement, nothing in this Agreement shall preclude HSN or any other HSN Entity, at any time after the Close of the Distribution Date, from amending, merging, modifying, terminating, eliminating, reducing, or otherwise altering in any respect any HSN Benefit Plan, any benefit under any Benefit Plan or any trust, insurance policy or funding vehicle related to any HSN Benefit Plan. Except as expressly provided in this Agreement, nothing in this Agreement shall preclude Tree or any other Tree Entity, at any time after the Close of the Distribution Date, from amending, merging, modifying, terminating, eliminating, reducing, or otherwise altering in any respect any Tree Benefit Plan, any benefit under any Benefit Plan or any trust, insurance policy or funding vehicle related to any Tree Benefit Plan.

### 6.4 Audit Rights With Respect to Information Provided

(a) Each Party, and its duly authorized representatives, shall have the right to conduct reasonable audits with respect to all information required to be provided to it by any other Party under this Agreement.

(b) The Party conducting an audit pursuant to this Section 6.4(a) (the "Auditing Party") may adopt reasonable procedures and guidelines for conducting audits and the selection of audit representatives under this Section 6.4. The Auditing Party shall have the right to make copies of any records at its expense, subject to any restrictions imposed by applicable laws and to any confidentiality provisions set forth in the Separation Agreement, which are incorporated by reference herein. The Party being audited shall provide the Auditing Party's representatives with reasonable access during normal business hours to its operations, computer systems and paper and electronic files, and provide workspace to its representatives. After any audit is completed, the Party being audited shall have the right to review a draft of the audit findings and to comment on those findings in writing within thirty business days after receiving such draft.

(c) The Auditing Party's audit rights under this Section 6.4 shall include the right to audit, or participate in an audit facilitated by the Party being audited, of any Subsidiaries and Affiliates of the Party being audited and to require the other Party to request any benefit providers and third parties with whom the Party being audited has a relationship, or agents of such Party, to agree to such an audit to the extent any such Persons are affected by or addressed in this Agreement (collectively, the "Non-parties"). The Party being audited shall, upon written request from the Auditing Party, provide an individual (at the Auditing Party's expense) to supervise any audit of a Non-party. The Auditing Party shall be responsible for supplying, at the Auditing Party's expense, additional personnel sufficient to complete the audit in a reasonably timely manner. The responsibility of the Party being audited shall be limited to providing, at the Auditing Party's expense, a single individual at each audited site for purposes of facilitating the audit.

6.5 Fiduciary Matters. It is acknowledged that actions required to be taken pursuant to this Agreement may be subject to fiduciary duties or standards of conduct under ERISA or other applicable law, and no Party shall be deemed to be in violation of this Agreement if it fails to comply with any provisions hereof based upon its good faith determination that to do so would violate such a fiduciary duty or standard. Each Party shall be responsible for taking such actions as are deemed necessary and appropriate to comply with its own fiduciary responsibilities and shall fully release and indemnify the other Party for any Liabilities caused by the failure to satisfy any such responsibility.

6.6 Consent of Third Parties. If any provision of this Agreement is dependent on the consent of any third party (such as a vendor) and such consent is withheld,

The Parties hereto shall use commercially reasonable efforts to implement the applicable provisions of this Agreement to the full extent practicable. If any provision of this Agreement cannot be implemented due to the failure of such third party to consent, the Parties hereto shall negotiate in good faith to implement the provision in a mutually satisfactory manner. The phrase "commercially reasonable efforts" as used herein shall not be construed to require any Party to incur any non-routine or unreasonable expense or Liability or to waive any right.

## ARTICLE VII MISCELLANEOUS

7.1 Effect If Effective Time Does Not Occur. If the Separation Agreement is terminated prior to the Distribution Date, then this Agreement shall terminate and all actions and events that are, under this Agreement, to be taken or occur effective immediately prior to or as of the Close of the Distribution Date, or Immediately after the Distribution Date, or otherwise in connection with the Separation Transactions, shall not be taken or occur except to the extent specifically agreed by the Parties.

7.2 Relationship of Parties. Nothing in this Agreement shall be deemed or construed by the Parties or any third party as creating the relationship of principal and agent, partnership or joint venture between the Parties, it being understood and agreed that no provision contained herein, and no act of the Parties, shall be deemed to create any relationship between the Parties other than the relationship set forth herein.

7.3 Affiliates. Each of IAC, TM, Interval, HSN and Tree shall cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth in this Agreement to be performed by another IAC Entity, TM Entity, Interval Entity, HSN Entity or Tree Entity, respectively.

7.4 Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be deemed given to a Party when (a) delivered to the appropriate address by hand or by nationally recognized overnight courier service (costs prepaid); (b) sent by facsimile with confirmation of transmission by the transmitting equipment; or (c) received or rejected by the addressee, if sent by certified mail, return receipt requested, in each case to the following addresses and facsimile numbers and marked to the attention of the person (by name or title) designated below (or to such other address, facsimile number or person as a Party may designate by notice to the other Parties):

(a) if to IAC:

IAC/InterActiveCorp  
555 West 18<sup>th</sup> Street  
New York, NY 10011  
Attention: General Counsel  
Facsimile No.: (212) 314-7379

(b) if to TM:

Ticketmaster  
8800 West Sunset Blvd  
West Hollywood, CA 90069  
Attention: General Counsel  
Facsimile No.: [ ]

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(c) if to Interval:

Interval Leisure Group, Inc.  
6262 Sunset Drive  
Miami, FL 33143  
Attention: General Counsel  
Facsimile No.: [ ]

(d) if to HSN:

HSN, Inc.  
1 HSN Drive  
St. Petersburg, FL 33729  
Attention: General Counsel  
Facsimile No.: [ ]

(e) if to Tree:

Tree.com, Inc.  
11115 Rushmore Drive  
Charlotte, NC 28277  
Attention: General Counsel  
Facsimile No.: [ ]

7.5 Abandonment. IAC may in its sole discretion abandon one or more of the Distributions (as defined in the Separation Agreement) prior to the Distribution Date, and, by notice to the other SpinCos, shall have the right to terminate this Agreement to the extent of the rights and obligations provided between the SpinCo(s) the Distribution of which shall have been abandoned, on the one hand, and the other SpinCos and IAC, on the other hand. In the event that one or more of the Distributions (as defined in the Separation Agreement) shall not be effected on the Distribution Date, (a) any provisions contained in this Agreement regarding the rights or obligations of a SpinCo the Distribution of which shall have been abandoned shall have no effect, (b) such SpinCo shall continue to be treated as a member of the IAC Group (as defined in the Separation Agreement) and (c) such SpinCo's SpinCo Employees and Former SpinCo Employees shall be treated as IAC Employees and Former IAC Employees, respectively, for purposes of this Agreement.

7.6 Incorporation of Separation Agreement Provisions. The following provisions of the Separation Agreement are hereby incorporated herein by reference, and unless otherwise expressly specified herein, such provisions shall apply as if fully set forth herein mutatis mutandis (references in this Section 7.6 to an "Article" or "Section" shall mean Articles or Sections of the Separation Agreement, and references in the material incorporated herein by reference shall be references to the Separation Agreement): Article VI (relating to Mutual Releases; Indemnification); Article VIII (relating to Exchange of Information; Confidentiality); Article IX (relating to Dispute Resolution); Article X (relating to Further Assurances); Article XII (relating to Sole Discretion of IAC; Termination) and Article XIV (relating to Miscellaneous).

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IN WITNESS WHEREOF, the Parties have caused this Employee Matters Agreement to be duly executed as of the day and year first above written.

IAC/INTERACTIVECORP

By: \_\_\_\_\_  
Name: Gregory R. Blatt  
Title: Executive Vice President

TICKETMASTER

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

INTERVAL LEISURE GROUP, INC.

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

HSN, INC.

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

TREE.COM, INC.

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



EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT ("Agreement"), dated as of July 29, 2008, is entered into by and between Mindy Grossman ("Executive") and HSN, Inc. (the "Company").

WHEREAS, Executive is currently serving as CEO of IAC Retailing, a business segment of IAC/InterActiveCorp ("IAC"), a Delaware corporation, and the parent company of the Company as of the date of this Agreement;

WHEREAS, the Company and Executive expect that IAC will cause the Company to become a separate public entity (the "HSN Spin-Off");

WHEREAS, the Company desires to establish the Company's right to the services of Executive for a period beginning on the date the HSN Spin-Off occurs (the "Effective Date"), in the capacity described below, on the terms and conditions hereinafter set forth, and Executive is willing to accept such employment on such terms and conditions;

WHEREAS, Executive and IAC are parties to an employment agreement (the "Prior Agreement"), with an effective date of May 1, 2006, which the parties intend will be superseded hereby; and

WHEREAS, in order to effect the foregoing, the Company and Executive wish to enter into an employment agreement on the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual agreements hereinafter set forth, Executive and the Company have agreed and do hereby agree as follows:

1A. EMPLOYMENT. During the Term (as defined below), the Company shall employ Executive, and Executive shall be employed, as Chief Executive Officer of the Company. During the Term, Executive shall do and perform all services and acts necessary or advisable to fulfill the duties and responsibilities as are commensurate and consistent with Executive's position and shall render such services on the terms set forth herein. During the Term, Executive shall report directly to the Board of Directors of the Company (the "Board"). Executive shall be the senior executive dedicated to the businesses of the Company and as such shall have primary responsibility for the management of all operations and activities of the businesses of the Company. Executive agrees to devote all of Executive's working time, attention and efforts to the Company and to perform the duties of Executive's position in accordance with the Company's policies as in effect from time to time and communicated to Executive. Executive may (i) serve on corporate, civic or charitable boards, (ii) manage personal investments and (iii) deliver lectures and fulfill speaking engagements, so long as (A) these activities do not interfere with Executive's qualitative performance of her responsibilities under this Agreement, (B) do not conflict with any applicable Company policy on conduct, including conflicts of interest, and (C) any service on a corporate, for-profit board is approved in advance by the Board. As of the date first written above, Executive serves on the Board of The East Harlem School at Exodus House and the Wharton Retail Advisory Board, and the Company hereby approves such service and

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agrees that Executive may continue such service so long as such service is otherwise in accordance with the preceding sentence. The Company further approves Executive's service on the Board of the National Retail Federation. Executive's principal place of employment shall be New York, New York, with substantial and regular travel outside of New York to the various businesses for which Executive is responsible, principally to St. Petersburg, Florida, and Executive acknowledges that it may be necessary, depending on the circumstances, that she spend the majority of her time outside of New York.

2A. TERM. Subject to Section 10A hereof, the terms and conditions of this Agreement shall commence on the Effective Date and, unless a longer period is otherwise provided herein, shall continue through January 31, 2012 (the "Initial Term"); provided, however, that at the end of the Initial Term and on each succeeding anniversary thereof, the employment of Executive will be automatically continued upon the terms and conditions set forth herein for one additional year (each, a "Renewal Term"), unless either party to this Agreement gives the other party written notice (in accordance with Section 4A) of such party's intention to terminate this Agreement and the employment of Executive at least ninety (90) days prior to the end of such initial or extended term. For purposes of this Agreement, the Initial Term and any Renewal Term shall collectively be referred to as the "Term."

3A. COMPENSATION.

(a) BASE SALARY. During the period that Executive is employed with the Company hereunder, the Company shall pay Executive an annual base salary of \$1,000,000 (the "Base Salary"), payable in equal biweekly installments or in accordance with the Company's payroll practice as in effect from time to time. For all purposes under this Agreement, the term "Base Salary" shall refer to the Base Salary as in effect from time to time. The Base Salary is subject to increase, but not decrease, in the sole discretion of the Compensation and Human Resources Committee (or such other committee responsible for compensation and related matters) of the Board of Directors of the Company (the "Compensation Committee").

(b) ANNUAL BONUS. During the Term, Executive shall be eligible to receive an annual cash bonus (the "Bonus") in respect of each fiscal year of the Company ending during the Term (a "Fiscal Year"). The Bonus shall have a high performance target of 100% of the Base Salary (the "Target Bonus"), with the actual amount determined in the sole discretion of the Compensation Committee, based on the factors it deems relevant with respect to any particular year, which may include, among other factors, the performance of the Company and its subsidiaries, as applicable, against pre-established performance criteria (including their competition, their prior year results, the achievement of established initiatives, etc.), and the contribution and performance of Executive. Bonus payments in respect of any Fiscal Year shall be made to Executive no later than the 15th day of the third month following the close of such Fiscal Year unless Executive shall elect to defer the receipt of such Bonus pursuant to an arrangement that meets the requirements of Section 409A (as defined below).

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(c) LONG TERM INCENTIVE PLAN. In addition to and not in lieu of the Bonus that Executive is eligible to receive pursuant to Section 3A(b) of this Agreement, Executive and the Company hereby agree to the long term incentive plan set forth on Exhibit A hereto.

(d) INITIAL EQUITY AWARDS. On the Effective Date, Executive shall be granted three separate options to acquire shares of common stock of the Company ("Common Stock"). Each option shall vest annually in equal installments over four years, subject to Executive's continued employment with the Company through the applicable vesting date, and otherwise shall be subject to the terms and conditions of the Company equity plan (the "Equity Plan") and applicable award agreement. The per share exercise price of the options shall be established at the time of grant as follows:

- (i) Option 1: Exercise price = \$2.1 billion minus the Initial Debt divided by the Share Count;
- (ii) Option 2: Exercise price = \$2.5 billion minus the Initial Debt divided by the Share Count; and
- (iii) Option 3: Exercise price = \$2.9 billion minus the Initial Debt divided by the Share Count.

Notwithstanding the foregoing, in the event any of the foregoing formulae would result in the grant of an option with an exercise price below the Fair Market Value (as defined in the Equity Plan) of the Common Stock on the date of grant, such exercise price shall instead be the Fair Market Value (as defined in the Equity Plan) of the Common Stock on such date of grant.

The number of shares of Common Stock subject to each option shall be determined by dividing (a) \$3.3 million, by (b) (i) (x) \$3.4 billion, minus (y) the Initial Debt, divided by (ii) the Share Count, minus (iii) the per share exercise price of such option (for the avoidance of doubt, the amount represented by clause (iii) shall be subtracted from the quotient of clause (i) divided by clause (ii)). The "Initial Debt" shall be the total borrowings of the Company outstanding at the time of the HSN Spin-Off under any bank facility or other long-term indebtedness, and the "Share Count" shall be the number of absolute shares of Common Stock outstanding immediately following the HSN Spin-Off.

By way of example only, if the Initial Debt was \$400 million and the Initial Share Count was 56.5 million, then the per share exercise price of Option 1 would be \$30.08 and the number of shares subject to the option would be 143,370.

(e) SUBSEQUENT INCENTIVE AWARDS. During the Term, Executive shall be eligible to receive equity incentive awards pursuant to annual or other grants under any equity-based compensation plan or plans that may be established or maintained by the Company and cash incentive awards pursuant to any incentive, bonus or similar plan that may be established or maintained by the Company. In determining whether and to what extent Executive shall participate in any such plans or programs, the Board (or the Compensation Committee thereof)

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shall exercise its reasonable discretion, taking into account Executive's position and responsibilities; Executive's and the Company's performance; Executive's then-existing equity position with the Company; prior equity and/or cash incentive awards granted to Executive; and equity and/or cash incentive awards granted to other executives of the Company.

(f) BENEFITS. From the Effective Date through the date of termination of Executive's employment with the Company for any reason, Executive shall be entitled to participate in any welfare, health and life insurance and pension benefit programs as may be adopted from time to time by the Company on at least as favorable a basis as that provided to similarly situated employees of the Company. Without limiting the generality of the foregoing, Executive shall be entitled to the following benefits:

(i) Reimbursement for Business Expenses. During the period that Executive is employed with the Company hereunder, the Company shall reimburse Executive for all reasonable and necessary expenses (including reasonable and documented costs of first/business class commercial air travel) incurred by Executive in performing Executive's duties for the Company, on the same basis as similarly situated employees and in accordance with the Company's policies as in effect from time to time. Executive understands that her employment will require regular, weekly travel outside of New York to the various businesses under her direction, principally to St. Petersburg, Florida. Additionally, during the Term and prior to any "Relocation" (as defined below), the Company will reimburse Executive for the cost of housing rental in Florida in a location within reasonable commuting distance by car to the Company's offices in St. Petersburg, Florida, auto lease payments and auto insurance (regardless of any Company policy to the contrary), and other miscellaneous expenses associated with her regular stays in Florida (such as reimbursable expenses, the "Commuting Expenses"), such total amount not to exceed \$75,000 in any given fiscal year (provided, that such maximum amount may be annually increased (but not decreased) at the Board's discretion to reflect annual increases in the Commuting Expenses). In the event that Executive decides to relocate to St. Petersburg, Florida on a full-time basis (the "Relocation"), (A) the Company will reimburse Executive in accordance with the Company's standard relocation policy for all reasonable relocation expenses Executive incurs and (B) Executive shall thereafter cease to be eligible for reimbursement for any of the Commuting Expenses. In the event that any such payments or reimbursements in respect of the Commuting Expenses or the Relocation are determined to be taxable compensation to Executive, the Company shall make Executive whole for such tax obligations. Any such make-whole tax payment made to Executive pursuant to the immediately preceding sentence shall be paid by the Company to Executive no later than the end of Executive's taxable year next following Executive's taxable year in which the taxes on any payments/reimbursements to Executive pursuant to this Section 3(A)(f)(i) are remitted to the Internal Revenue Service or any other applicable taxing authority. The amount of any such fees and expenses that the Company is obligated to pay pursuant to this Section 3(A)(f)(i) in any given calendar year shall not affect the fees and expenses that the Company is obligated to pay in any

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other calendar year, and Executive's right to have the Company pay such fees and expenses may not be liquidated or exchanged for any other benefit.

(ii) Reimbursement for Attorneys' Fees. The Company shall reimburse Executive for up to \$25,000 in reasonable attorneys' fees and disbursements incurred in connection with the negotiation of this Agreement. The amount of any such fees and expenses that the Company is obligated to pay pursuant to this Section 3(A)(f)(ii) in any given calendar year shall not affect the fees and expenses that the Company is obligated to pay in any other calendar year, and Executive's right to have the Company pay such fees and expenses may not be liquidated or exchanged for any other benefit.

(iii) Vacation. During the period that Executive is employed with the Company hereunder, Executive shall be entitled to not less than four (4) weeks of paid vacation each year, in accordance with the plans, policies, programs and practices of the Company applicable to similarly situated employees of the Company generally.

4A. NOTICES. All notices and other communications under this Agreement shall be in writing and shall be given by first-class mail, certified or registered with return receipt requested or hand delivery acknowledged in writing by the recipient personally, and shall be deemed to have been duly given three (3) days after mailing or immediately upon duly acknowledged hand delivery to the respective persons named below:

If to the Company:	to the General Counsel of the Company.
If to Executive:	Mindy Grossman 180 E. 79th Street Apt. 3C New York, New York 10021

Either party may change such party's address for notices by notice duly given pursuant hereto.

5A. GOVERNING LAW; JURISDICTION. This Agreement (including its Exhibits) and the legal relations thus created between the parties hereto shall be governed by and construed under and in accordance with the internal laws of the State of Delaware without reference to the principles of conflicts of laws which could cause the

application of the law of any jurisdiction other than the State of New York. Any and all disputes between the parties which may arise pursuant to this Agreement will be heard and determined before an appropriate federal court located in the County of New York, or, if not maintainable therein, then in an appropriate New York state court located in the County of New York. The parties acknowledge that such courts have jurisdiction to interpret and enforce the provisions of this Agreement, and the parties consent to, and waive any and all objections that they may have as to, personal jurisdiction and/or venue in such courts. If Executive materially prevails in a dispute with the Company, the Company shall promptly reimburse the reasonable attorneys' fees and related expenses incurred by Executive in such dispute at any time from the Effective Date of this Agreement through Executive's remaining lifetime (or, if longer, through the 20<sup>th</sup> anniversary of the Effective Date).

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In order to comply with Section 409A (as defined below), in no event shall the payments by the Company under this Section 5A be made later than the end of the calendar year next following the calendar year in which such fees and expenses were incurred, provided, that Executive shall have submitted an invoice for such fees and expenses at least ten (10) days before the end of the calendar year next following the calendar year in which such fees and expenses were incurred. The amount of such legal fees and expenses that the Company is obligated to pay in any given calendar year shall not affect the legal fees and expenses that the Company is obligated to pay in any other calendar year, and Executive's right to have the Company pay such legal fees and expenses may not be liquidated or exchanged for any other benefit. For these purposes, if there are a series of disputes which are adjudicated in a single proceeding, whether or not a party has materially prevailed shall be evaluated in terms of the aggregate disputes.

6A. COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same instrument.

7A. STANDARD TERMS AND CONDITIONS. Executive expressly understands and acknowledges that the Standard Terms and Conditions attached hereto are incorporated herein by reference, deemed a part of this Agreement and are binding and enforceable provisions of this Agreement. References to "this Agreement" or the use of the term "hereof" shall refer to this Agreement and the Standard Terms and Conditions attached hereto, taken as a whole. Capitalized terms used but not defined in the Standard Terms and Conditions shall have the meanings assigned to such terms in this Agreement.

8A. SECTION 409A OF THE INTERNAL REVENUE CODE. This Agreement is intended to comply with the requirements of Section 409A of the Internal Revenue Code of 1986, as amended (the "Code"), and the rules and regulations issued thereunder ("Section 409A") or an exemption and shall in all respects be administered in accordance with Section 409A. Notwithstanding anything in the Agreement to the contrary, distributions upon termination of employment may only be made upon a "separation from service" as determined under Section 409A. Each payment under this Agreement shall be treated as a separate payment for purposes of Section 409A. In no event may Executive, directly or indirectly, designate the calendar year of any payment to be made under this Agreement that is "nonqualified deferred compensation" within the meaning of Section 409A. All reimbursements and in-kind benefits provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A. In the event the parties determine that the terms of this Agreement do not comply with Section 409A, they will negotiate reasonably and in good faith to amend the terms of this Agreement such that it complies (in a manner that attempts to minimize the economic impact of such amendment on Executive and the Company) within the time period permitted by the applicable Treasury Regulations. In no event shall the Company be required to pay Executive any "gross-up" or other payment with respect to any taxes or penalties imposed under Section 409A with respect to any benefit paid or promised to Executive hereunder based on the Company's reasonable good-faith interpretation of Section 409A.

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9A. CERTAIN ADDITIONAL PAYMENTS BY THE COMPANY.

(a) If it is determined (as hereafter provided) that any payment or distribution by the Company to or for the benefit of Executive, whether paid or payable or distributed or distributable pursuant to the terms of this Agreement or otherwise pursuant to or by reason of any other agreement, policy, plan, program or arrangement of the Company, including without limitation any restricted stock unit, stock option, stock appreciation right or similar right, or the lapse or termination of any restriction on or the vesting or exercisability of any of the foregoing (a "Payment"), would be subject to the excise tax imposed by Section 4999 of the Code (or any successor provision thereto), or any interest or penalties with respect to such excise tax (such tax or taxes, together with any such interest and penalties, are hereafter collectively referred to as the "Excise Tax"), then Executive will be entitled to receive an additional payment or payments (a "Gross-Up Payment") in an amount such that, after payment by Executive of all taxes (including any interest or penalties imposed with respect to such taxes), including any Excise Tax imposed upon the Gross-Up Payment, but excluding in all cases any income taxes and penalties imposed pursuant to Section 409A on amounts paid or promised to Executive based on the Company's reasonable good-faith interpretation of Section 409A, Executive retains an amount of the Gross-Up Payment equal to the Excise Tax imposed upon the Payments. Notwithstanding the foregoing provisions of this Section 9A(a), if it shall be determined in accordance with this Section 9A that Executive is entitled to the Gross-Up Payment, but that the "Parachute Value" (as defined below) of all Payments does not exceed 110% of the "Safe Harbor Amount" (as defined below), then no Gross-Up Payment shall be made to Executive and the amounts payable under this Agreement shall be reduced so that the Parachute Value of all payments, in the aggregate, equals the Safe Harbor Amount. The reduction of the amounts payable under this Agreement, if applicable, shall be made by reducing the payments and benefits under the following sections of the Standard Terms and Conditions in the following order: (i) Section 1(d)(i), (ii) Section 1(d)(iii), (iii) Section 1(d)(v) and (iv) Section 1(d)(iv). For purposes of reducing the Payments to the Safe Harbor Amount, only amounts payable under this Agreement (and no other payments) shall be reduced. If the reduction of the amount payable under this Agreement would not result in a reduction of the Parachute Value of all Payments to the Safe Harbor Amount, no amounts payable under this Agreement shall be reduced pursuant to this Section 9A(a). The Company's obligation to make Gross-Up Payments under this Section 9 shall not be conditioned upon Executive's termination of employment.

(b) Subject to the provisions of Section 9A(f) of this Agreement, all determinations required to be made under this Section 9A, including whether an Excise Tax is payable by Executive and the amount of such Excise Tax and whether a Gross-Up Payment is required and the amount of such Gross-Up Payment, will be made by a nationally recognized firm of certified public accountants (the "Accounting Firm") chosen by the Company. The Company will direct the Accounting Firm to submit its determination and detailed supporting calculations to both the Company and Executive within fifteen (15) calendar days after the date of the event giving rise to the Payment or the date of Executive's termination of employment, if applicable, and any other such time or times as may be reasonably requested by the Company or Executive. If the Accounting Firm determines that any Excise Tax is

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payable by Executive, the Company will pay the required Gross-Up Payment to Executive within fifteen (15) business days after receipt of such determination and calculations. If the Accounting Firm determines that no Excise Tax is payable by Executive, it will, at the same time as it makes such determination, furnish Executive with an opinion that she has substantial authority not to report any Excise Tax on her federal, state, local income or other tax return. Any determination by the Accounting Firm as to the amount of the Gross-Up Payment will be binding upon the Company and Executive. As a result of the uncertainty in the application of Section 4999 of the Code (or any successor provision thereto) and the possibility of similar uncertainty regarding applicable state or local tax law at the time of any determination by the Accounting Firm hereunder, it is possible that Gross-Up Payments which will not have been made by the Company should have been made (an "Underpayment"), consistent with the calculations required to be made hereunder. In the event that the Company exhausts or fails to pursue its remedies pursuant to Section 9A(f) hereof and Executive thereafter is required to make a payment of any Excise Tax, Executive will direct the Accounting Firm to determine the amount of the Underpayment that has occurred and to submit its determination and detailed supporting calculations to both the Company and Executive as promptly as possible. Any such Underpayment will be promptly paid by the Company to, or for the benefit of, Executive within fifteen (15) business days after receipt of such determination and calculations.

(c) The Company and Executive will each cooperate with the Accounting Firm in connection with the preparation and issuance of the determination contemplated by Section 9A(b) of this Agreement.

(d) The federal, state and local income or other tax returns filed by Executive will be prepared and filed on a consistent basis with the determination of the Accounting Firm with respect to the Excise Tax payable by Executive. Executive will make proper payment of the amount of any Excise Tax, and, at the request of the Company, provide to the Company true and correct copies (with any amendments) of her federal income tax return as filed with the Internal Revenue Service (the "IRS") and corresponding state and local tax returns, if relevant, as filed with the applicable taxing authority, and such other documents reasonably requested by the Company, evidencing such payment. If prior to the filing of Executive's federal income tax return, or corresponding state or local tax return, if relevant, the Accounting Firm determines that the amount of the Gross-Up Payment should be reduced, Executive will, within fifteen (15) business days pay to the Company the amount of such reduction.

(e) The fees and expenses of the Accounting Firm for its services in connection with the determinations and calculations contemplated by Section 9A(b) and Section 9A(d) of this Agreement will be borne by the Company and paid as incurred; provided, however, (i) the Company shall pay the fees and expenses of the Accounting Firm not later than the end of the calendar year following the calendar year in which the related work is performed or the expenses are incurred by the Accounting Firm, (ii) the amount of the Accounting Fees that the Company is obligated to pay in any given calendar year shall not affect the Accounting Fees that the Company is obligated to pay in any other calendar year, and (iii) Executive's right to have the Company pay such fees and expenses may not be liquidated or exchanged for any other benefit. If such fees and expenses are initially advanced by Executive, the Company will reimburse Executive the full amount of such fees and expenses within fifteen (15) business days after receipt from Executive of a statement therefor and reasonable evidence of her payment thereof.

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(f) Executive will notify the Company in writing of any claim by the IRS that, if successful, would require the payment by the Company of a Gross-Up Payment. Such notification will be given as promptly as practicable but no later than ten (10) business days after Executive actually receives notice of such claim and Executive will further apprise the Company of the nature of such claim and the date on which such claim is requested to be paid (in each case, to the extent known by Executive). Executive will not pay such claim prior to the earlier of (x) the expiration of the thirty (30) calendar-day period following the date on which she gives such notice to the Company and (y) the date that any payment of amount with respect to such claim is due. If the Company notifies Executive in writing prior to the expiration of such period that it desires to contest such claim, Executive will:

- (i) provide the Company with any written records or documents in her possession relating to such claim reasonably requested by the Company;
- (ii) take such action in connection with contesting such claim as the Company will reasonably request in writing from time to time, including without limitation accepting legal representation with respect to such claim by an attorney competent in respect of the subject matter and reasonably selected by the Company;
- (iii) cooperate with the Company in good faith in order effectively to contest such claim; and
- (iv) permit the Company to participate in any proceedings relating to such claim;

provided, however, that the Company will bear and pay directly all costs and expenses (including interest and penalties) incurred in connection with such contest and will indemnify and hold harmless Executive, on an after-tax basis, for and against any Excise Tax or income tax, including interest and penalties with respect thereto, imposed as a result of such representation and payment of costs and expenses; provided, further, however, (i) the Company shall pay the costs and expenses not later than the end of the calendar year following the calendar year in which the costs and expenses are incurred, (ii) the amount of such costs and expenses that the Company is obligated to pay in any given calendar year shall not affect the costs and expenses that the Company is obligated to pay in any other calendar year, and (iii) the Executive's right to have the Company pay such costs and expenses may not be liquidated or exchanged for any other benefit. Without limiting the foregoing provisions of this Section 9A(f), the Company will control all proceedings taken in connection with the contest of any claim contemplated by this Section 9A(f) and, at its sole option, may pursue or forego any and all administrative appeals, proceedings, hearings and conferences with the taxing authority in respect of such claim (provided that Executive may participate therein at her own cost and expense) and may, at its sole option, either pay the tax claimed to the appropriate taxing authority on behalf of Executive and direct Executive to sue for a

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refund or contest the claim in any permissible manner, and Executive agrees to prosecute such contest to a determination before any administrative tribunal, in a court of initial jurisdiction and in one or more appellate courts, as the Company will determine; provided, that if the Company pays such claim and directs Executive to sue for a refund, the Company will indemnify and hold Executive harmless, on an after-tax basis, from any Excise Tax or income tax, including interest or penalties with respect thereto, imposed with respect to such payment or with respect to any imputed income in connection with such payment; and provided further, that any extension of the statute of limitations relating to payment of taxes for the taxable year of Executive with respect to which the contested amount is claimed to be due is limited solely to such contested amount. Furthermore, the Company's control of any such contested claim will be limited to issues with respect to which a Gross-Up Payment would be payable hereunder, and Executive will be entitled to settle or contest, as the case may be, any other issue raised by the IRS or any other taxing authority.

(g) If, after the receipt by Executive of a Gross-Up Payment or a payment by the Company of an amount on Executive's behalf pursuant to Section 9A(f) hereof, Executive receives any refund with respect to such claim, Executive will (subject to the Company's complying with the requirements of Section 9A(f) hereof) promptly pay to the Company the amount of such refund (together with any interest paid or credited thereon after any taxes applicable thereto). If, after payment by the Company of an amount on Executive's behalf pursuant to Section 9A(f) hereof, a determination is made that Executive will not be entitled to any refund with respect to such claim and the Company does not notify Executive in writing of its intent to contest such denial or refund prior to the expiration of thirty (30) calendar days after such determination, then the amount of such payment will offset, to the extent thereof, the amount of Gross-Up Payment required to be paid pursuant to this Section 9A.

(h) If it is ultimately determined (by IRS private letter ruling or closing agreement, court decision or otherwise) that any Gross-Up Payments and/or Underpayments and/or any other amounts paid or made by the Company pursuant to this Section 9A were not necessary to accomplish the purpose of this Section 9A, Executive shall promptly cooperate with the Company to correct such overpayments (by way of assigning any refund to the Company as provided herein, by direct repayment or otherwise) in a manner consistent with the purpose of this Section 9A, which is to protect Executive by making her whole, but not more than whole, on an after-tax basis, from the application of the Excise Tax.

(i) Any Gross-Up Payment, as determined pursuant to this Section 9, shall be paid by the Company to Executive within five (5) days of the receipt of the Accounting Firm's determination; provided that, the Gross-Up Payment shall in all events be paid no later than the end of Executive's taxable year next following Executive's taxable year in which the Excise Tax (and any income or other related taxes or interest or penalties thereon) on a Payment are remitted to the Internal Revenue Service or any other applicable taxing authority or, in the case of amounts relating to a claim described in Section 9A(f) that does not result in the remittance of any federal, state, local and foreign income, excise, social security and other taxes, the calendar year in which the claim is finally settled or otherwise resolved. Notwithstanding any other provision of this Section 9A to the contrary, the Company may, in its sole discretion, withhold and pay over to the Internal Revenue Service or any other applicable taxing authority, for the benefit of Executive, all or any portion of any Gross-Up Payment, and Executive hereby consents to such withholding.

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“Parachute Value” of a Payment shall mean the present value as of the date of the change of control for purposes of Section 280G of the Code of the portion of such Payment that constitutes a “parachute payment” under Section 280G(b)(2) as determined by the Accounting firm for purposes of determining whether and to what extent the Excise Tax will apply to such Payment.

“Safe Harbor Amount” means 2.99 times Executive’s “base amount,” within the meaning of Section 280G(b)(3) of the Code.

10A. Notwithstanding anything to the contrary herein, this Agreement shall become effective if and only if the Effective Date occurs on or before January 31, 2009, and if the Effective Date does not occur on or before January 31, 2009 this Agreement shall be null and void and of no force and effect.

[The Signature Page Follows]

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IN WITNESS WHEREOF, the Company has caused this Agreement to be executed and delivered by its duly authorized officer and Executive has executed and delivered this Agreement as of the date set forth above.

HSN, INC.

/s/ Gregory Blatt

By: Gregory Blatt  
Title: Vice President

/s/ Mindy Grossman

Mindy Grossman

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STANDARD TERMS AND CONDITIONS

References herein to the “Agreement” shall be deemed to refer to the Employment Agreement between the executive and the Company dated as of July 29, 2008 as the same may be amended and in effect from time to time (the “Employment Agreement”), incorporating these terms and conditions therein as if part of the same.

1. TERMINATION OF EXECUTIVE’S EMPLOYMENT.

(a) DEATH. In the event Executive’s employment hereunder is terminated by reason of Executive’s death, (i) the Company shall pay Executive’s designated beneficiary or beneficiaries within thirty (30) days following Executive’s death in a lump sum in cash (A) Executive’s Base Salary through the end of the month in which death occurs and (B) any “Accrued Obligations” (as defined in paragraph 1(f) below), (ii) a number of the restricted stock units with respect to shares of IAC common stock granted to Executive on April 9, 2008 (the “2008 Cliff Vesting Restricted Stock Units”) (as converted in connection with the HSN Spin-Off) shall automatically vest such that the total number of such 2008 Cliff Vesting Restricted Stock Units vested shall equal one-fourth of the original 2008 Cliff Vesting Restricted Stock Units (on an as converted basis) granted for each year of completed service by Executive following January 31, 2008 (the “Base Vesting Date”) (e.g., if Executive’s employment is terminated by virtue of death two years and three months following the Base Vesting Date, she will vest in a total of 50% of the original 2008 Cliff Vesting Restricted Stock Units) and (iii) a number of the restricted stock units with respect to shares of IAC common stock granted to Executive on May 17, 2006 (the “2006 Cliff Vesting Restricted Stock Units”) (as converted in connection with the HSN Spin-Off) shall automatically vest such that the total number of such 2006 Cliff Vesting Restricted Stock Units vested shall equal one-fifth of the original 2006 Cliff Vesting Restricted Stock Units (on an as converted basis) granted for each year of completed service by Executive following May 1, 2006 (e.g., if Executive’s employment is terminated by virtue of death two years and three months following May 1, 2006, she will vest in a total of 40% of the original 2006 Cliff Vesting Restricted Stock Units).

(b) DISABILITY. If, as a result of Executive’s incapacity due to physical or mental illness (“Disability”), Executive shall have been absent from the full-time performance of Executive’s duties with the Company for a period of four (4) consecutive months and, within thirty (30) days after written notice is provided to Executive by the Company (in accordance with Section 4A of the Employment Agreement), Executive shall not have returned to the full-time performance of Executive’s duties, Executive’s employment under this Agreement may be terminated by the Company for Disability. During any period prior to such termination during which Executive is absent from the full-time performance of Executive’s duties with the Company due to Disability, the Company shall continue to pay Executive’s Base Salary at the rate in effect at the commencement of such period of Disability and provide all other payments and benefits required under this Agreement, offset (in the case of cash payments) by any amounts paid to Executive for such period under any disability insurance plan or policy provided by the Company. Upon termination of Executive’s employment due to Disability, (i) the Company

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shall pay Executive within thirty (30) days following such termination in a lump sum in cash (A) Executive’s Base Salary through the end of the month in which termination occurs, offset by any amounts paid to Executive for such period under any disability insurance plan or policy provided by the Company, and (B) any Accrued Obligations (as defined in paragraph 1(f) below) (provided that any payments in respect of previously earned but unpaid Bonuses, shall be made no later than the 15th day of the third month following the close of such Fiscal Year unless Executive has previously elected to defer the receipt of such bonus pursuant to an arrangement that meets the requirements of Section 409A), (ii) a number of 2008 Cliff Vesting Restricted Stock Units (as converted in connection with the HSN Spin-Off) shall automatically vest such that the total number of such 2008 Cliff Vesting Restricted Stock Units vested shall equal one-fourth of the original 2008 Cliff Vesting Restricted Stock Units (on an as converted basis) granted for each year of completed service by Executive following the Base Vesting Date (e.g., if Executive’s employment is terminated by virtue of Disability two years and three months following the Base Vesting Date, she will vest in a total of 50% of the original 2008 Cliff Vesting Restricted Stock Units) and (iii) a number of the 2006 Cliff Vesting Restricted Stock Units (as converted in connection with the HSN Spin-Off) shall automatically vest such that the total number of such 2006 Cliff Vesting Restricted Stock Units vested shall equal one-fifth of the original Cliff Vesting Restricted Stock Units (on an as converted basis) granted for each year of completed service by Executive following May 1, 2006 (e.g., if Executive’s employment is terminated by virtue of Disability two years and three months following May 1, 2006, she will vest in a total of 40% of the original 2006 Cliff Vesting Restricted Stock Units), provided that if such 2008 Cliff Vesting Restricted Stock Units or 2006 Cliff Vesting Restricted Stock Units constitute “nonqualified deferred compensation” within the meaning of Section 409A of the Code, the delivery of shares of common stock or cash (as applicable) in settlement of such awards shall be made on the date that is six months after Executive’s “separation from service,” if required by Section 409A, or if earlier, immediately following any permissible payment event under Section 409A.

(c) TERMINATION BY THE COMPANY FOR CAUSE OR BY EXECUTIVE OTHER THAN FOR GOOD REASON The Company may terminate

Executive's employment under this Agreement with or without Cause at any time prior to the expiration of the Term. Executive may voluntarily terminate her employment hereunder other than for Good Reason at any time prior to the expiration of the Term by providing written notice to the Company at least thirty (30) days prior to termination. As used herein, "Cause" shall mean: (i) the plea of guilty or nolo contendere to, or conviction for, the commission of a felony offense by Executive; provided, however, that after indictment, the Company may suspend Executive from the rendition of services, but without limiting or modifying in any other way the Company's obligations under the Agreement (including the Exhibits hereto); provided, further, that Executive's employment shall be immediately reinstated if the indictment is dismissed or otherwise dropped and there is not otherwise grounds to terminate Executive's employment for Cause; (ii) a material breach by Executive of a fiduciary duty owed to the Company which, in the good faith reasonable determination of the Board, undermines the confidence of the Board in Executive's fitness to continue in her position; provided, however, that, to the extent such material breach can be remedied, the Board's determination as to whether "Cause" exists under this Section 1(c)(ii) shall

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take into account any remedial action taken by Executive, including any such action taken during the five (5)-day period following the Board's provision to Executive of a written demand for remedial action, which demand specifically identifies the manner in which the Company believes that Executive has materially breached such fiduciary duty; (iii) a material breach by Executive of any of the covenants made by Executive in Section 3 hereof; provided, however, that in the event such material breach is curable, Executive shall have failed to remedy such material breach within ten (10) days of Executive having received a written demand for cure by the Board, which demand specifically identifies the manner in which the Company believes that Executive has materially breached any of the covenants made by Executive in Section 3 hereof; (iv) Executive's continued failure to perform her material duties with the Company or otherwise follow the reasonable direction of the Board (other than any such failure resulting from Executive's incapacity due to physical or mental illness) for a period of five (5) days following Executive's receipt of written notice signed by the Board which specifically identifies the manner in which the Company believes that Executive has not substantially performed Executive's duties, provided if Executive's whereabouts are unknown to the Company, then such termination shall be effective within eight (8) days of the sending of such notice, or (v) a knowing and material violation by Executive of any material Company policy pertaining to ethics, wrongdoing or conflicts of interest, provided such policy has been communicated to Executive in writing (which may have been through electronic means) prior to such violation; provided, that with respect to each of clauses (i) through (v) of this Section 1(c), "Cause" shall be deemed to exist solely if it is so determined in good faith by the vote of not less 2/3 of the Board (excluding Executive). Upon (A) the termination of Executive's employment by the Company for Cause or (B) Executive's resignation without "Good Reason" (as defined in Section 1(d)) prior to the expiration of the Term, the Company shall have no further obligation hereunder, except for the payment of any Accrued Obligations.

(d) TERMINATION BY THE COMPANY OTHER THAN FOR DEATH, DISABILITY OR CAUSE; TERMINATION BY EXECUTIVE FOR GOOD REASON. If Executive's employment is terminated prior to the expiration of the Term by the Company (including pursuant to the Company's written notification of non-renewal of this Agreement in accordance with Section 2A of the Employment Agreement) for any reason other than Cause or Executive's death or Disability, or by Executive for Good Reason, then:

(i) the Company shall continue to pay to Executive the Base Salary (at the rate then in effect) for twenty-four months (the "Severance Period") in equal bi-weekly installments consistent with the Company's regular payroll practices for the payment of base salary for its employees as in effect from time to time, (the "Cash Severance Payments"),

(ii) the Company shall pay to Executive within thirty (30) days of the date of such termination any Accrued Obligations (as defined in paragraph 1(f) below) (provided that any payments in respect of previously earned but unpaid Bonuses, shall be made no later than the 15th day of the third month following the close of such Fiscal Year unless Executive has previously elected to defer the receipt of such bonus pursuant to an arrangement that meets the requirements of Section 409A),

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(iii) the Company shall pay to Executive at the time when bonuses for the Fiscal Year in which the date of termination occurs would otherwise be paid (but in no event later than the 15th day of the third month following the close of such Fiscal Year unless Executive has previously elected to defer the receipt of such Bonus pursuant to an arrangement that meets the requirements of Section 409A), any Bonus that would have been earned by Executive during such Fiscal Year if such termination had not occurred, which Bonus shall be based on the Company's actual achievement of pre-established performance criteria established by the Compensation Committee in accordance with Section 3A(b) of the Employment Agreement, provided, that (A) in the event that as of the date on which Executive's employment terminates such criteria have not been established, the Bonus shall not be less than the Adjusted Bonus, and (B) if the determination of the Bonus that would have been earned by Executive during such Fiscal Year is based, in whole or part, on the exercise of discretion by the Compensation Committee, the Bonus shall not be reduced by such discretion below, the Adjusted Bonus. Any Bonus payable pursuant to this clause (iii) shall be reduced by a percentage equal to the percentage of the year remaining following the date of Executive's termination of employment. For these purposes, the Adjusted Bonus shall be the product of (x) Executive's Target Bonus for such Fiscal Year, and (y) a percentage equal to the average of the percentages of the respective target annual bonuses of the officers of the Company (other than Executive) who were "named executive officers" whose compensation was disclosed in the Summary Compensation Table included in the Company's disclosure under Item 402 of Regulation S-K promulgated by the Securities and Exchange Commission in respect of the Fiscal Year during which the date of termination occurs that were awarded to such officers in respect of such Fiscal Year (disregarding for this purpose any pro ration of such annual bonus for any such officer whose service with the Company terminated during the Fiscal Year, if applicable),

(iv) any compensation awards of Executive based on, or in the form of, Company equity (e.g., restricted stock, restricted stock units, stock options or similar instruments), and any equity awards in other companies that were originally denominated in shares of IAC stock and were converted in the Spin-Off, that are (A) outstanding and unvested at the time of such termination and (B) were outstanding immediately after the Effective Date (collectively, the "Equity Awards") shall automatically vest upon the date of such termination, and all stock options shall remain exercisable for the shorter of (1) 12 months following the date of termination and (2) the remainder of their full term, provided that, in the event any such awards constitute "nonqualified deferred compensation" within the meaning of Section 409A, the delivery of shares of common stock or cash (as applicable) in settlement of such awards shall be made on the date that is six months after the Executive's "separation from service," if required by Section 409A, or if earlier, immediately following any permissible payment event under Section 409A; provided, further, however, that any Equity Awards that would vest under this provision but for the fact that outstanding performance conditions have not been satisfied shall vest only if, and at such point as, such performance conditions are satisfied.

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(v) for a period ending on the earlier of (A) eighteen (18) months following the date of the termination of Executive's employment with the Company, (B) the expiration of the Term and (C) the time Executive becomes eligible for such benefits from another employer, the Company shall continue to provide health benefits and term life insurance to Executive and her covered dependents, if any, as are provided from time to time to actively employed senior executives of the Company. To the extent that the Company determines that the health benefits and term life insurance provided for in this Section 1(d) are not permissible after termination of employment under the terms of the benefit plans of the Company then in effect (and cannot be provided through the Company's paying the applicable premium for Executive under COBRA), the Company shall pay to Executive (within thirty (30) days after the date of termination of employment) such amount as is necessary to provide Executive, after tax, with an amount equal to the cost of acquiring, for Executive and her spouse and dependents, if any, on a non-group basis, for the period specified above, those benefits that would have been provided to Executive and her spouse and dependents under this Section 1(d)

With respect to the payments described in paragraphs (i) and (iii) above, any reduction in Executive's Base Salary or Target Bonus that would constitute Good Reason as defined herein shall be disregarded. The payment to Executive of the severance benefits described in this Section 1(d) shall be subject to Executive's execution and non-revocation of a general release of the Company and its affiliates, within thirty (30) days of the date of termination of Executive's employment, for claims related to Executive's termination of employment (the "Release"). Executive acknowledges and agrees that the severance benefits described in this Section 1(d) constitute good and valuable consideration for the Release.

Notwithstanding the preceding provisions of this Section 1(d), in the event that Executive is a "specified employee" (within the meaning of Section 409A) on the date of termination of Executive's employment with the Company and the Cash Severance Payments to be paid within the first six months following such date (the "Initial Payment Period") exceed the amount referenced in Treas. Regs. Section 1.409A-1(b)(9)(iii)(A) (the "Limit"), then (i) any portion of the Cash Severance Payments that is payable during the Initial Payment Period that does not exceed the Limit shall be paid at the times set forth in Section 1(d)(i) as applicable, (ii) any portion of the Cash Severance Payments that is a "short-term deferral" within the meaning of Treas. Regs. Section 1.409A-1(b)(4)(i) shall be paid at the times set forth in Section 1(d)(i), (iii) any portion of the Cash Severance Payments that exceeds the Limit and is not a "short-term deferral" (and would have been payable during the Initial Payment Period but for the Limit) shall be paid, with Interest, on the first business day of the first calendar month that begins after the six-month anniversary of Executive's "separation from service" (within the meaning of Section 409A) and (iv) any portion of the Cash Severance Payments that is payable after the Initial Payment Period shall be paid at the times set forth in Section 1(d)(i). For purposes of this paragraph, "Interest" shall mean interest at the applicable federal rate provided for in Section 7872(f)(2)(A) of the Code, from the date on which payment would otherwise have been made but for any required delay through the date of payment.

For purposes of the Agreement:

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"Good Reason" shall mean the occurrence of any of the following without Executive's prior written consent: (A) the Company's material breach of this Agreement, (B) the material reduction in Executive's title, duties, reporting responsibilities or level of responsibilities, excluding for this purpose any such reduction resulting from any disposition of assets so long as the Company retains the businesses relating to the HSN television network and web-site and acknowledging that the involvement of the Chairman of the Board in certain matters primarily relating to public company reporting, significant corporate transactions, or other significant financial, legal and accounting matters, shall not constitute any such reduction provided that Executive continues to have primary responsibility for the management of all operations and activities of the businesses of the Company, (C) a material reduction in the Base Salary or Target Bonus or (D) a relocation by the Company of Executive's principal place of business to any area more than fifty (50) miles from New York, New York; provided, that in no event shall Executive's resignation be for "Good Reason" unless (x) an event or circumstance set forth in clauses (A), (B), (C) or (D) shall have occurred and Executive provides the Company with written notice thereof within ninety (90) days after Executive has actual knowledge of the occurrence or existence of such event or circumstance, which notice specifically identifies the event or circumstance that Executive believes constitutes Good Reason, (y) the Company fails to correct the circumstance or event so identified within thirty (30) days after the receipt of such notice, and (z) Executive resigns within one hundred and twenty (120) days after the date of delivery of the notice referred to in clause (x) above;

(e) OFFSET. In the event Executive's employment is terminated in a manner that entitles Executive to payments under Section 1(d), and Executive subsequently obtains other employment during the Severance Period, then Executive shall have an obligation to promptly repay the Company out of her current cash earnings (i.e., base salary and, if applicable, any sign-on or annual bonus, but not cash- or equity-based long-term incentive awards, retirement or welfare benefits, or any other payments or benefits) from such subsequent employment during the Severance Period an amount equal to all cash payments made to Executive under Section 1(d)(i) and 1(d)(iii) (such amounts, the "Cash Severance Payments") in excess of One Million Dollars (\$1,000,000). This repayment obligation shall be satisfied to the extent that, after taking into account all taxes withheld or paid on account of the Cash Severance Payments, all actual repayments by Executive to the Company and all deductions Executive receives as a result of such repayment, Executive is in the same economic position as if she had only been paid, on a pre-tax basis, One Million Dollars (\$1,000,000) of Cash Severance Payments, provided Executive shall be required to take all reasonably available steps that have no significant adverse economic impact on Executive to limit the amount of taxes owed on the Cash Severance Payments and to maximize the tax benefit to Executive resulting from Executive's repayment obligation to the Company (and thereby maximize the amount of the repayment obligation to the Company). Such repayment obligation of Executive shall also take the form of an offset for any ongoing Cash Severance Payments. In the event of any termination of Executive's employment hereunder, Executive shall be under no obligation to seek other employment but, for purposes of this Section 1(e), Executive shall have an obligation to inform the Company promptly regarding

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Executive's employment status following termination and during the period encompassing the Term.

(f) ACCRUED OBLIGATIONS. As used herein, "Accrued Obligations" shall mean the sum of (i) any portion of Executive's accrued but unpaid Base Salary through the date of death or termination of employment for any reason, as the case may be; (ii) any accrued but unpaid vacation or expense reimbursements; (iii) any earned but unpaid Bonus with respect to the fiscal year preceding the fiscal year in which the termination occurs; and (iv) any compensation previously earned but deferred by Executive (together with any interest or earnings thereon) that has not yet been paid and that is not otherwise paid at a later date pursuant to any deferred compensation arrangement of the Company to which Executive is a party, if any provided, that any election made by Executive pursuant to any deferred compensation arrangement that is subject to Section 409A of the Code regarding the schedule for payment of such deferred compensation shall prevail over this Section 1(d) to the extent inconsistent herewith).

2. TREATMENT OF CERTAIN OF EXECUTIVE'S EQUITY-BASED AWARDS IN THE EVENT OF A CHANGE OF CONTROL OF THE COMPANY. In the event that, during the Term, there is consummated a "Change of Control" (as such term shall be defined in the omnibus equity compensation plan to be adopted by the Company), any Equity Awards that are (i) outstanding and unvested at the time of such Change of Control and (ii) were outstanding immediately after the Effective Date shall vest in full; provided, however, that if any portion of such Equity Awards constitutes "nonqualified deferred compensation" within the meaning of Section 409A, the delivery of shares of Common Stock or cash (as applicable) in settlement of such Existing Awards shall occur on the date of the Change of Control only if the Change of Control constitutes a "change in control event" within the meaning of Section 409A, and otherwise shall occur on the applicable Equity Award's regular settlement date.

3. CONFIDENTIAL INFORMATION; NON-SOLICITATION; AND PROPRIETARY RIGHTS.

(a) CONFIDENTIALITY. Executive acknowledges that, while employed by the Company, Executive will occupy a position of trust and confidence. The Company shall provide Executive with "Confidential Information" as referred to below. Executive shall not, except as may be required to perform Executive's duties hereunder or as required by applicable law, without limitation in time, communicate, divulge, disseminate, disclose to others or otherwise use, whether directly or indirectly, any Confidential Information regarding the Company or any of its subsidiaries or affiliates. "Confidential Information" shall mean information about the Company or any of its subsidiaries or affiliates, and their respective businesses, employees, consultants, contractors, clients and customers that is not disclosed by the Company or any of its subsidiaries or affiliates for financial reporting purposes or otherwise made available to the public (other than by Executive's breach of the terms hereof) and that was learned by Executive in the course of employment by the Company or any of its subsidiaries or affiliates, including (without limitation) any proprietary knowledge, trade secrets, data,

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formulae, information and client and customer lists and all papers, resumes, and records (including computer records) of the documents containing such Confidential Information. Executive acknowledges that such Confidential Information is specialized, unique in nature and of great value to the Company and its subsidiaries or affiliates, and that such information gives the Company and its subsidiaries or affiliates a competitive advantage. Executive agrees to deliver or return to the Company, at the Company's request at any time or upon termination or expiration of Executive's employment or as soon thereafter as possible, all documents, computer tapes and disks, records, lists, data, drawings, prints, notes and written information (and all copies thereof) furnished by the Company and its subsidiaries or affiliates or prepared by Executive in the course of Executive's employment by the Company and its subsidiaries or affiliates. As used in this Agreement, "subsidiaries" and "affiliates" shall mean any company controlled by, controlling or under common control with the Company. For purposes of this Section 3(a), "Company" shall mean IAC and the Company (and their respective predecessors and successors).

(b) NON-COMPETITION. In consideration of the Company's promise to disclose, and disclosure of, its Confidential Information and other good and valuable consideration provided hereunder, the receipt and sufficiency of which are hereby acknowledged by Executive, Executive hereby agrees and covenants that during the Term and for a period of twelve (12) months following termination of Executive's employment for any reason or no reason, Executive shall not (other than on behalf of the Company or any of its subsidiaries or affiliates), without the prior written consent of the Company, directly or indirectly engage in or assist any retailing business (whether traditional "bricks-and-mortar", online, catalog, television or other) or any other business of a type substantially similar to any business for which Executive becomes responsible while employed by the Company at any time during the Term, whether such engagement or assistance is as an officer, director, proprietor, employee, partner, investor (other than as a holder of less than 5% of the outstanding capital stock of a publicly traded entity), guarantor, consultant, advisor, agent, sales representative or other similar relationship, in any country in the world where the Company or any of its subsidiaries or affiliates has conducted business during the Term (provided, that inadvertent receipt of television signals or access to the Company's web sites in a particular country shall not, without more, constitute the conduct of business by the Company in such country). Notwithstanding the foregoing, the obligations under this Section 3(b) shall extend an additional six (6) months with respect to Executive becoming associated with QVC or any other business a principal aspect of which is selling goods via television.

(c) NON-SOLICITATION OF EMPLOYEES. Executive recognizes that she will possess Confidential Information about other employees, consultants and contractors of the Company and its subsidiaries or affiliates relating to their education, experience, skills, abilities, compensation and benefits, and inter-personal relationships with suppliers and customers of the Company and its subsidiaries or affiliates. Executive recognizes that the information she will possess about these other employees, consultants and contractors is not generally known, is of substantial value to the Company and its subsidiaries or affiliates in developing their respective businesses and in securing and retaining customers, and will be acquired by Executive because of

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Executive's business position with the Company. Executive agrees that, during the Term (and for a period of eighteen (18) months following termination of Executive's employment for any reason or no reason), Executive will not, directly or indirectly, hire or solicit or recruit any employee of the Company or any of its subsidiaries or affiliates (other than her personal secretary at the time of the termination of her employment) for the purpose of being employed by Executive or by any business, individual, partnership, firm, corporation or other entity on whose behalf Executive is acting as an agent, representative or employee.

(d) PROPRIETARY RIGHTS; ASSIGNMENT. All Executive Developments shall be made for hire by Executive for the Company or any of its subsidiaries or affiliates. "Executive Developments" means any idea, discovery, invention, design, method, technique, improvement, enhancement, development, computer program, machine, algorithm or other work or authorship that (i) relates to the business or operations of the Company or any of its subsidiaries or affiliates, or (ii) results from or is suggested by any undertaking assigned to Executive or work performed by Executive for or on behalf of the Company or any of its subsidiaries or affiliates, whether created alone or with others, during or after working hours. All Confidential Information and all Executive Developments shall remain the sole property of the Company or any of its subsidiaries or affiliates. Executive shall acquire no proprietary interest in any Confidential Information or Executive Developments developed or acquired during the Term. To the extent Executive may, by operation of law or otherwise, acquire any right, title or interest in or to any Confidential Information or Executive Development, Executive hereby assigns to the Company all such proprietary rights. Executive shall, both during and after the Term, upon the Company's request, promptly execute and deliver to the Company all such assignments, certificates and instruments, and shall promptly perform such other acts, as the Company may from time to time in its discretion deem necessary or desirable to evidence, establish, maintain, perfect, enforce or defend the Company's rights in Confidential Information and Executive Developments.

(e) COMPLIANCE WITH POLICIES AND PROCEDURES. During the period that Executive is employed with the Company hereunder, Executive shall adhere to the policies and standards of professionalism set forth in the Company's Policies and Procedures as they may be communicated in writing to Executive from time to time (including through electronic means).

(f) REMEDIES FOR BREACH. Executive expressly agrees and understands that the remedy at law for any breach by Executive of this Section 3 will be inadequate and that damages flowing from such breach are not usually susceptible to being measured in monetary terms. Accordingly, it is acknowledged that, upon Executive's violation of any provision of this Section 3, the Company shall be entitled to obtain from any court of competent jurisdiction immediate injunctive relief and obtain a temporary order restraining any threatened or further breach as well as an equitable accounting of all profits or benefits arising out of such violation. Nothing in this Section 3 shall be deemed to limit the Company's remedies at law or in equity for any breach by Executive of any of the provisions of this Section 3, which may be pursued by or available to the Company.

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(g) SURVIVAL OF PROVISIONS. The obligations contained in Sections 3 and 11 of these Terms and Conditions and in Sections 5A and 9A of the Employment Agreement shall, to the extent provided in such Sections, survive the termination or expiration of Executive's employment with the Company and, as applicable, shall be fully enforceable thereafter in accordance with the terms of this Agreement. If it is determined by a court of competent jurisdiction in any state that any restriction in this Section 3 is excessive in duration or scope or is unreasonable or unenforceable under the laws of that state, it is the intention of the parties that such restriction may be modified or amended by the court to render it enforceable to the maximum extent permitted by the law of that state.

4. TERMINATION OF PRIOR AGREEMENTS. This Agreement constitutes the entire agreement between the parties and, as of the Effective Date, terminates and supersedes any and all prior agreements and understandings (whether written or oral) between the parties with respect to the subject matter of this Agreement, including, without limitation, the Prior Agreement. Executive acknowledges and agrees that neither the Company nor anyone acting on its behalf has made, and is not making, and in executing this Agreement, Executive has not relied upon, any representations, promises or inducements except to the extent the same is expressly set forth in this Agreement.

5. ASSIGNMENT; SUCCESSORS. This Agreement is personal in its nature and none of the parties hereto shall, without the consent of the others, assign or transfer this Agreement or any rights or obligations hereunder; provided, that (i) the Company may assign this Agreement to any affiliate of the Company (which affiliate clearly has sufficient assets to satisfy the Company's obligations under this Agreement), and (ii) in the event of the merger, consolidation, transfer, reorganization or sale of all, substantially all or a substantial portion of the assets of the Company with or to any other individual or entity, this Agreement shall, subject to the provisions hereof, be binding upon and inure to the benefit of such successor and such successor (including the Company upon assignment of the Agreement) shall discharge and perform all the promises, covenants, duties, and obligations of the Company hereunder, and in the event of any such assignment or transaction, all references herein to the "Company" shall refer to the Company's assignee or successor hereunder.





(i) <10%, (ii) ≥10% but <12.5%, (iii) ≥12.5% but <15% or (iv) ≥15%, **then** Executive shall receive a payment in an amount equal to:

- (i) 0%, (ii) 33%, (iii) 66% or (iv) 100%, respectively, of 50% (\$2,000,000) of the Maximum Bonus; **less**
- 25% of the gross amount that would otherwise be payable in Year 3 for each twelve month period (April 1 through March 31) in which the cumulative compounded annual growth rate of EBITA is <5%

(the net amount determined pursuant to the immediately preceding bullets, the “Year 3 Payment”).

Year 4:

· **If** the cumulative compounded annual growth rate of EBITA for Years 1 through 4 (the period commencing April 1, 2008 and ending March 31, 2012) is (i) <10%, (ii) ≥10% but <12.5%, (iii) ≥12.5% but <15% or (iv) ≥15%, **then** Executive shall receive (i) 0%, (ii) 33%, (iii) 66% or (iv) 100%, respectively, of the Maximum Bonus **less** the amounts set forth in the two immediately succeeding bullets:

- 25% of the gross amount that would otherwise be paid in Year 4 (without regard to any payment made in Year 3) for each twelve month period (April 1 through March 31) in which the cumulative compounded annual growth rate of EBITA is <5%; and
- the Year 3 Payment

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(the amount determined pursuant to the immediately preceding bullets, the “Year 4 Payment”).

3. Miscellaneous. Furthermore, for purposes only of the Long Term Incentive Plan and for determining whether the above conditions to payment (or any applicable portion thereof) have been met, Executive and the Company hereby acknowledge and agree as follows:

(i) in the event of an acquisition, sale or other disposition of a significant asset (or portion of assets), business, subsidiary and/or investment of HSN, EBITA shall, for all periods covered by this Long Term Incentive Plan, exclude the results attributable to such significant asset(s), business, subsidiary and/or investment;

(ii) the Year 3 Payment and/or Year 4 Payment shall be made as soon as practicable following the date on which HSN determines the level of cumulative compounded annual growth rate of EBITA achieved for Years 1 through 3 and Years 1 through 4, respectively, which date shall be no later than the date on which HSN releases its earnings for the fiscal quarter ended March 31, 2011 and March 31, 2012, respectively;

(iii) notwithstanding anything in the Agreement to the contrary, Executive shall forfeit any rights to the Year 3 Payment and/or Year 4 Payment if Executive is not employed by the Company on the last day of Year 3 and Year 4, respectively, unless Executive’s employment is terminated by the Company for any reason other than Cause, or if Executive terminates her employment for Good Reason, provided that if Executive’s employment is terminated due to death or disability, the amount of the Year 3 and Year 4 Payments shall be pro rated to account for the portion of the period commencing April 1, 2008 and ending March 31, 2012 during which Executive was employed by the Company and such payments, if any, shall be made at the times contemplated in clause (ii) above.

(iv) each amount payable pursuant to the Long Term Incentive Plan may be paid in one (1) installment in either Common Stock or in cash, or some combination thereof, as determined by the Company in its discretion (and in the event of any such payment in such Common Stock, the amount of such Common Stock will be based on the closing price of such Common Stock for the trading day prior to payment of the applicable bonus and will be rounded down to the nearest whole share); provided that any such Common Stock shall be issued pursuant to the Equity Plan or otherwise be registered and freely tradable by Executive; and

(v) for the avoidance of doubt, Section 5 of the Standard Terms and Conditions of the Employment Agreement shall apply to the payment of amounts pursuant to the Long Term Incentive Plan and, in accordance with such section, the number of shares of Common Stock issued as part of any Common Stock portion of each such amount shall be net of the minimum number of such shares (rounded up to the next whole number) of Common Stock sufficient to cover the amount of withholding taxes Executive is required to pay as a result of receipt of such Common Stock portion of each such amount; cash payments hereunder shall also be subject to applicable withholdings.

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4. Recoupment in Certain Circumstances. Notwithstanding anything to the contrary herein or in the Employment Agreement, in the event that, at any time during the period beginning the date on which the Year 3 Payment or the Year 4 Payment, as applicable, is paid to Executive and ending on the earlier of (i) the third anniversary of the applicable payment date or (ii) a Change of Control (as such term is defined in the Equity Plan) the conditions described in either paragraph (A) and/or paragraph (B) below exist, the Company shall have the right to recoup the Year 3 Payment and/or the Year 4 Payment, as applicable, up to the amount specified in paragraph (A) or paragraph (B) below, as applicable, net of any income, withholding, social security or other taxes already paid in respect of Executive’s receipt of such amount (provided, that if, following the Company’s recoupment of the amount, Executive successfully claims a tax deduction in respect of the amount recouped by the Company, the Executive shall pay to the Company an additional amount equal to the tax deduction she receives).

(A) At least 2/3 of the Board (excluding Executive) determines in good faith that there was a material inaccuracy in the determination of cumulative compounded annual growth rate of EBITA for the applicable period on the basis of which the Year 3 Payment or the Year 4 Payment, as the case may be, was calculated. If the Company’s right to recoupment is asserted based on the conditions in this paragraph (A), the Company shall have the right to recoup no more than the amount by which the Year 3 Payment and/or the Year 4 Payment, as the case may be, exceeded the payment that would have been made absent such inaccuracy.

(B) At least 2/3 of the Board (excluding Executive) determines in good faith that, at any time prior to the payment of the Year 3 Payment and/or the Year 4 Payment, as applicable, Executive committed any action(s) or inaction(s) that constituted Cause. If the Company’s right to recoupment is asserted based on the conditions in this paragraph (B), the Company shall have the right to recoup up to the full amount of the Year 3 Payment and/or the Year 4 Payment, as applicable.

Prior to making the determination described in paragraph (A) or paragraph (B) above, the Board shall provide Executive with written notice, in accordance with Section 4A of the Agreement, specifically identifying the act(s) or inaction(s) alleged to constitute Executive’s misconduct or Cause, as the case may be, and Executive shall have the opportunity within ten (10) days of the provision of such notice to be heard by the Board of Directors.

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EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT ("Agreement") is entered into by and between William Lynch ("Employee"), HSN General Partner LLC, a Delaware limited liability company (the "Company" or "HSN"), and IAC/InterActiveCorp, a Delaware corporation ("IAC") (solely for purposes of Sections 1A and 3A(c) of this Agreement and Section 3 of the Standard Terms and Conditions), and is effective November 19, 2007 (the "Effective Date").

WHEREAS, Employee has been serving as Executive Vice President/General Manager HSN.com and Chief Executive Officer of Gifts.com;

WHEREAS, Employee and IAC are parties to an Employment Agreement (the "Prior Agreement"), dated as of October 20, 2006, which, the parties intend will be superseded (save as provided in Section 3 of the Standard Terms and Conditions); and

WHEREAS, the Company desires to establish its right to the services of Employee, in the capacities described below, on the terms and conditions hereinafter set forth, and Employee is willing to accept such employment on such terms and conditions.

NOW, THEREFORE, in consideration of the mutual agreements hereinafter set forth, Employee and the Company have agreed and do hereby agree as follows:

1A. EMPLOYMENT. The Company agrees to employ Employee as Executive Vice President HSN.com, Marketing and Content and Chief Executive Officer of Gifts.com, and Employee accepts and agrees to such employment. During Employee's employment with the Company, Employee shall do and perform all services and acts necessary or advisable to fulfill the duties and responsibilities as are commensurate and consistent with Employee's position and shall render such services on the terms set forth herein. During Employee's employment with the Company, Employee shall report directly to the CEO, IAC Retailing or to such person(s) as from time to time may be designated by the Company (hereinafter referred to as the "Reporting Officer"). Employee shall have such powers and duties with respect to the Company as may reasonably be assigned to Employee by the Reporting Officer, to the extent consistent with Employee's position and status. Employee agrees to devote all of Employee's working time, attention and efforts to the Company and to perform the duties of Employee's position in accordance with the Company's policies as in effect from time to time. Employee's principal place of employment shall be HSN's offices located in St. Petersburg, Florida.

Notwithstanding the foregoing paragraph, Employee will endeavor to hire a general manager for Gifts.com, which hire shall be satisfactory to IAC, to assume day-to-day operating authority over that business. Upon hiring the new general manager, Employee shall no longer hold the position of Chief Executive Officer of Gifts.com and shall, through December 31, 2008, assist with transition matters relating to Gifts.com and otherwise be available for consultation with, and provide assistance to, Gifts.com concerning its general operations (collectively, the "Consulting Services"), in each case as may be reasonably requested by IAC or Gifts.com. To the extent Employee or the Company reasonably believes that the provision of the Consulting

Services is interfering with Employee's ability to perform his duties for the Company as provided hereunder, Employee, the Company and IAC shall work together to find a mutually satisfactory solution that will enable Employee to perform his Company related duties as required, as well as provide the Consulting Services. However, notwithstanding any action taken pursuant to this Paragraph, Employee shall remain considered the Chief Executive Officer of Gifts.com for the purpose of the Restricted Stock Unit Agreement dated December 30, 2004 among GiftCo, Inc., IAC and the persons listed on Exhibit A thereto (the "Gifts RSU Agreement").

2A. TERM OF AGREEMENT. The term ("Term") of this Agreement shall commence on the Effective Date and shall continue for three (3) years, unless sooner terminated in accordance with the provisions of Section 1 of the Standard Terms and Conditions attached hereto.

3A. COMPENSATION.

(a) BASE SALARY. During the Term of this Agreement, the Company shall pay Employee an annual base salary of \$450,000 (the "Base Salary"), payable in equal biweekly installments or in accordance with the Company's payroll practice as in effect from time to time. For all purposes under this Agreement, the term "Base Salary" shall refer to Base Salary as in effect from time to time. The Base Salary shall be reviewed annually by HSN in a manner consistent with the evaluations provided for similarly situated executives of HSN for their base salaries.

(b) DISCRETIONARY BONUS. During the Term, Employee shall be eligible to receive discretionary annual bonuses; provided that Employee's target bonus shall be 60% of the then existing Base Salary.

(c) EQUITY COMPENSATION.

(i) GiftCo Restricted Stock Units. The Company acknowledges that GiftCo, Inc. has granted to Employee 500 restricted stock units (the "Gifts.com Units") subject to the terms and conditions of the Gifts RSU Agreement. The Gifts.com Units shall continue to vest as provided under the Gifts RSU Agreement while Employee continues as Chief Executive Officer of Gifts.com and thereafter for as long as Employee is available to provide Consulting Services (regardless of the continued employment requirements for vesting contained in the Gifts RSU Agreement), and the Gifts.com Units will continue to be subject to the Gifts RSU Agreement, including with respect to timing of valuation and settlement of the units.

(ii) IAC Restricted Stock Units.

(a) Subject to the approval of the Compensation Committee of the Board of Directors of IAC (the "Compensation Committee") and Employee's continued performance of services for HSN, Employee shall be granted, under the IAC 2005 Stock & Annual Incentive Plan, an award of 50,000 restricted stock units (the "2007 RSU Award"). The vesting and other terms for the 2007 RSU Award are set forth in the form of Award Notice and related Terms and Conditions attached as Exhibit A hereto. In the

event of any conflict or ambiguity between this Agreement and the Terms and Conditions, the Terms and Conditions shall control.

(b) It is agreed and understood that Employee has been granted an award of 11,768 Restricted Stock Units from IAC pursuant to a Restricted Stock Unit Agreement dated February 16, 2007 between Employee and IAC ("IAC RSU Agreement"). In addition to the 2007 RSU Award, the prior award pursuant to the IAC RSU Agreement shall remain in full force and effect, and the restricted stock units provided by the IAC RSU Agreement shall continue to vest on the schedule and terms set forth in the IAC RSU Agreement.

(d) BENEFITS. From the Effective Date through the date of termination of Employee's employment with the Company for any reason, Employee shall be

entitled to participate in any welfare, health and life insurance and pension benefit and incentive programs as may be adopted from time to time by the Company on the same basis as that provided to similarly situated employees of the Company. Without limiting the generality of the foregoing, Employee shall be entitled to the following benefits:

- (i) Reimbursement for Business Expenses. During the Term, the Company shall reimburse Employee for all reasonable and necessary expenses incurred by Employee in performing Employee's duties for the Company, on the same basis as similarly situated employees and in accordance with the Company's policies as in effect from time to time.
- (ii) Paid Time Off. During the Term, Employee shall be entitled to paid time off per year, in accordance with the plans, policies, programs and practices of the Company applicable to similarly situated employees of the Company generally.
- (iii) Housing Expense. During the Term and for so long as Employee continues to be Chief Executive Officer of Gifts.com, Employee shall be entitled to reimbursement for the reasonable expenses incurred by Employee in connection with renting a place to live in the Los Angeles, California metropolitan area for Employee's use in connection with his employment, subject to a maximum of \$4,000 per month. Employee may request Gifts.com to make payments directly to the landlord and/or owner of the rented premises if such direct payment is beneficial to both parties.

4A. NOTICES. All notices and other communications under this Agreement shall be in writing and shall be given by first-class mail, certified or registered with return receipt requested or hand delivery acknowledged in writing by the recipient personally, and shall be deemed to have been duly given three days after mailing or immediately upon duly acknowledged hand delivery to the respective persons named below:

If to the Company:                    HSN General Partner LLC  
    1 HSN Drive  
    St. Petersburg, Florida 33729  
    Attention: General Counsel

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If to IAC:                                IAC/InterActiveCorp  
    555 West 18th Street  
    New York, NY 10011  
    Attention: General Counsel

If to Employee:                        William J. Lynch, Jr.  
    2415 West Sunset Drive  
    Tampa, FL 33629

Either party may change such party's address for notices by notice duly given pursuant hereto.

5A. GOVERNING LAW; JURISDICTION. This Agreement and the legal relations thus created between the parties hereto shall be governed by and construed under and in accordance with the internal laws of the State of Florida without reference to the principles of conflicts of laws. Any and all disputes between the parties which may arise pursuant to this Agreement will be heard and determined before an appropriate federal court in Pinellas or Hillsborough Counties or, if not maintainable therein, then in an appropriate Florida state court. The parties acknowledge that such courts have jurisdiction to interpret and enforce the provisions of this Agreement, and the parties consent to, and waive any and all objections that they may have as to, personal jurisdiction and/or venue in such courts.

6A. COUNTERPARTS. This Agreement may be executed in several counterparts, including facsimiles and PDF format, each of which shall be deemed to be an original but all of which together will constitute one and the same instrument.

7A. STANDARD TERMS AND CONDITIONS. Employee expressly understands and acknowledges that the Standard Terms and Conditions attached hereto are incorporated herein by reference, deemed a part of this Agreement and are binding and enforceable provisions of this Agreement. References to "this Agreement" or the use of the term "hereof" shall refer to this Agreement and the Standard Terms and Conditions attached hereto, taken as a whole.

8A. SECTION 409A OF THE INTERNAL REVENUE CODE. This Agreement is not intended to constitute a "nonqualified deferred compensation plan" within the meaning of Section 409A of the Internal Revenue Code of 1986, as amended, and the rules and regulations issued thereunder ("Section 409A"). Notwithstanding the foregoing, if this Agreement or any benefit paid to Employee hereunder is subject to Section 409A and if Employee is a "Specified Employee" (as defined under Section 409A) as of the date of Employee's termination of employment hereunder, then the payment of benefits, if any, scheduled to be paid by the Company to Employee hereunder during the first six (6) month period beginning the date of a termination of employment hereunder shall be delayed during such six (6) month period and shall commence immediately following the end of such six (6) month period (and the period in which such payments were scheduled to be made if not for such delay shall be extended accordingly). In no event shall the Company be required to pay Employee any "gross-up" or other payment with respect to any taxes or penalties imposed under Section 409A with respect to any benefit paid to Employee hereunder.

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[The Signature Page Follows]

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IN WITNESS WHEREOF, the Company has caused this Agreement to be executed and delivered by its duly authorized officer, and Employee has executed and delivered this Agreement on \_\_\_\_\_, 2007.

HSN GENERAL PARTNER LLC

/s/ Lisa Letizio  
By: Lisa Letizio  
Title: EVP, Human Resources

IAC/INTERACTIVECORP  
(Solely for purposes of Sections 1A and 3A(c))

/s/ Gregory R. Blatt  
By: Gregory R. Blatt  
Title: EVP, General Counsel & Secretary

/s/ William J. Lynch, Jr.  
William J. Lynch, Jr.

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STANDARD TERMS AND CONDITIONS

**1. TERMINATION OF EMPLOYEE'S EMPLOYMENT.**

(a) **DEATH.** In the event Employee's employment hereunder is terminated by reason of Employee's death, the Company shall pay Employee's designated beneficiary or beneficiaries, within 30 days of Employee's death in a lump sum in cash, Employee's Base Salary through the end of the month in which death occurs and any Accrued Obligations (as defined in paragraph 1(f) below).

(b) **DISABILITY.** If, as a result of Employee's incapacity due to physical or mental illness ("Disability"), Employee shall have been absent from the full-time performance of Employee's duties with the Company for a period of four (4) consecutive months and, within thirty (30) days after written notice is provided to Employee by the Company (in accordance with Section 4A hereof), Employee shall not have returned to the full-time performance of Employee's duties, Employee's employment under this Agreement may be terminated by the Company for Disability. During any period prior to such termination during which Employee is absent from the full-time performance of Employee's duties with the Company due to Disability, the Company shall continue to pay Employee's Base Salary at the rate in effect at the commencement of such period of Disability, offset by any amounts payable to Employee under any disability insurance plan or policy provided by the Company. Upon termination of Employee's employment due to Disability, the Company shall pay Employee within thirty (30) days of such termination (i) Employee's Base Salary through the end of the month in which termination occurs in a lump sum in cash, offset by any amounts payable to Employee under any disability insurance plan or policy provided by the Company; and (ii) any Accrued Obligations (as defined in paragraph 1(f) below).

(c) **TERMINATION FOR CAUSE.** The Company may terminate Employee's employment under this Agreement for Cause at any time prior to the expiration of the Term. As used herein, "Cause" shall mean: (i) the plea of guilty or nolo contendere to, or conviction for, the commission of a felony offense by Employee; provided, however, that after indictment for the commission of a felony offense by Employee, the Company may suspend Employee from the rendition of services, but without limiting or modifying in any other way the Company's obligations under this Agreement including, without limitation, the obligation to pay the Base Salary; (ii) a material breach by Employee of a fiduciary duty owed to the Company; (iii) a knowing and material breach by Employee of any of the covenants made by Employee in Section 2 hereof; (iv) the willful or gross neglect by Employee of the material duties required by this Agreement; or (v) a knowing and material violation of any Company policy pertaining to ethics, wrongdoing or conflicts of interest that, in the case of the conduct described in clause (iii), (iv) or (v) above, if curable, is not cured by Employee within 30 days after Employee is provided with written notice thereof. In the event of Employee's termination for Cause, this Agreement shall terminate without further obligation by the Company, except for the payment of any Accrued Obligations (as defined in paragraph 1(f) below).

(d) **TERMINATION BY THE COMPANY OTHER THAN FOR DEATH, DISABILITY OR CAUSE; RESIGNATION BY EMPLOYEE FOR GOOD REASON.** If Employee's employment is terminated by the Company for any reason other than Employee's death or Disability or for Cause or if Employee resigns for Good Reason (as defined below), then (i) the Company shall pay Employee the Base Salary through the end of the Term over the course of the then remaining Term; (ii) the vesting of the 2007 RSU Award, IAC RSU Agreement, and Gifts RSU Agreement shall be as is provided for in the terms and conditions for each such award; and (iii) the Company shall pay Employee within 30 days of the date of such termination, or such shorter period of time as may be required by applicable law, in a lump sum in cash any Accrued Obligations (as defined in paragraph 1(f) below). Employee acknowledges and agrees that the payment to Employee of the severance benefits described in this Section 1(d) constitutes good and valuable consideration for, and shall be subject to, Employee's execution and non-revocation of a general release of the Company and its affiliates in a form substantially similar to that used for similarly situated executives of the Company and its affiliates. As used herein, "Good Reason" shall mean the occurrence of any of the following without Employee's prior consent: (A) the material reduction in Employee's title or duties as it relates to his position with the Company (it being understood that this clause shall not be triggered upon Employee ceasing hold the position of Chief Executive Officer of Gifts.com), (B) a material adverse change in reporting structure; provided that the implementation of a Reporting Officer who reports to the CEO, IAC Retailing would not trigger this Section 1(d)(B) as long as Employee's change in reporting structure is consistent with changes being implemented for other Executive Vice Presidents of the Company, or (C) the relocation of Employee's principal place of employment more than 50 miles outside the St. Petersburg metropolitan area, provided that in no event shall Employee's resignation be for "Good Reason" unless (x) an event or circumstance set forth in clauses (A) through (C) shall have occurred and Employee provides the Company with written notice thereof within 30 days after the Employee has knowledge of the occurrence or existence of such event or circumstance, which notice specifically identifies the event or circumstance that Employee believes constitutes Good Reason, (y) the Company fails to correct the circumstance or event so identified within 30 days after the receipt of such notice, and (z) the Employee resigns within 90 days after the date of delivery of the notice referred to in clause (x) above.

(e) **MITIGATION; OFFSET.** In the event of termination of Employee's employment prior to the end of the Term, in no event shall Employee be obligated to seek other employment or to take any action to mitigate the amounts payable under Section 1 hereof. The Company shall be obligated to compensate Employee pursuant to the terms of this Agreement. If Employee obtains other employment during the Term, the amount of any payment or benefit provided for under Section 1 hereof which has been paid to Employee shall be refunded to the Company by Employee in an amount equal to any compensation earned by Employee as a result of employment with or services provided to another employer after the date of Employee's termination of employment and prior to the otherwise applicable expiration of the Term, and all future amounts payable by the Company to Employee during the remainder of the Term shall be offset by the amount earned by Employee from another employer. For purposes of this Section 1(e), Employee shall have an obligation to inform the Company regarding Employee's employment status following termination and during the period encompassing the Term.

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(f) **ACCRUED OBLIGATIONS.** As used in this Agreement, "Accrued Obligations" shall mean the sum of (i) any portion of Employee's Base Salary through the date of death or termination of employment for any reason, as the case may be, which has not yet been paid; (ii) any compensation previously earned but deferred by Employee (together with any interest or earnings thereon) that has not yet been paid and that is not otherwise to be paid at a later date pursuant to the executive deferred compensation plan of the Company, if any; and (iii) the value of any accrued paid time off in accordance with the policies and procedures of the Company.

2. CONFIDENTIAL INFORMATION; NON-COMPETITION; NON-SOLICITATION; AND PROPRIETARY RIGHTS

(a) CONFIDENTIALITY. Employee acknowledges that, while employed by the Company, Employee will occupy a position of trust and confidence. The Company shall provide Employee with Confidential Information (as defined below). Employee shall not, except as may be required to perform Employee's duties hereunder or as required by applicable law, without limitation in time or until such information shall have become public other than by Employee's unauthorized disclosure, disclose to others or use, whether directly or indirectly, any Confidential Information regarding the Company or any of its subsidiaries or affiliates (which for this Section 2(a), shall include Gifts.com whether or not within the definition below of affiliate). "Confidential Information" shall mean information about the Company or any of its subsidiaries or affiliates, and their clients and customers that is not disclosed by the Company or any of its subsidiaries or affiliates for financial reporting purposes and that was learned by Employee in the course of employment by the Company or any of its subsidiaries or affiliates, including (without limitation) any proprietary knowledge, trade secrets, data, formulae, information and client and customer lists and all papers, resumes, and records (including computer records) of the documents containing such Confidential Information. Employee acknowledges that such Confidential Information is specialized, unique in nature and of great value to the Company and its subsidiaries or affiliates, and that such information gives the Company and its subsidiaries or affiliates a competitive advantage. Employee agrees to deliver or return to the Company, at the Company's request at any time or upon termination or expiration of Employee's employment or as soon thereafter as possible, all documents, computer tapes and disks, records, lists, data, drawings, prints, notes and written information (and all copies thereof) furnished by the Company and its subsidiaries or affiliates or prepared by Employee in the course of Employee's employment by the Company and its subsidiaries or affiliates. As used in this Agreement, "subsidiaries" and "affiliates" shall mean any company controlled by, controlling or under common control with the Company.

(b) NON-COMPETITION. During Employee's employment with the Company and for twelve (12) months thereafter, Employee shall not, directly or indirectly, on behalf of Employee or on behalf of or with any other person, enterprise or entity, in any individual or representative capacity, engage or participate in any business, including its affiliated Internet entities, that is in competition with the Company or any subsidiary or affiliate of the Company in the United States of America in the field of television retailing, including, without limitation, QVC or Shop NBC (formerly called ValueVision), as well as any company which subsequently enters the field of television retailing as its primary business or in any other business of a type substantially similar to any business for which Employee is or becomes responsible during the

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Term provided that such business is ancillary to or materially incorporates television retailing (collectively, the "Competing Companies"). Employee's obligations under this Section shall continue during the Term and for the period after the Term set forth above and shall not, for any reason, cease upon termination of Employee's employment with the Company. Regardless of any language to the contrary, Employee shall be permitted to work with GiftCo, Inc. in accordance with Section 1A and as may be required or requested by IAC. Notwithstanding anything else contained in this Section, Employee may own, for investment purposes only, up to five percent (5%) of the stock of any Competing Company if it is a publicly-held corporation whose stock is either listed on a national stock exchange or on the NASDAQ National Market System and if Employee is not otherwise affiliated with or participating in such corporation. As used herein, "participate" means lending one's name to, acting as consultant or advisor to, being employed by or acquiring any direct or indirect interest in any business or enterprise, whether as a stockholder, partner, officer, director, employee, consultant or otherwise. In the event that (1) the Company or any of its subsidiaries or affiliates places, or has placed for it, all or substantially all of its assets up for sale within one (1) year after termination of Employee's employment hereunder or (2) Employee's employment is terminated in connection with the disposition of all or substantially all of such assets (whether by sale of assets, equity or otherwise), Employee agrees to be bound by, and to execute such additional instruments as may be necessary or desirable to evidence Employee's agreement to be bound by, the terms and conditions of any non-competition provisions relating to the purchase and sale agreement for such assets, without any consideration beyond that expressed in this Agreement, provided that the purchase and sale agreement is negotiated in good faith with customary terms and provisions and the transaction contemplated thereby is consummated. Notwithstanding the foregoing, in no event shall Employee be bound by, or obligated to enter into, any non-competition provisions referred to in this Section 2(b) which extend beyond twelve (12) months, in each case from the date of termination of Employee's employment hereunder or whose scope extends the scope of the non-competition provisions set forth in this Section 2(b). The twelve (12) month time period referred to above shall be tolled on a day-for-day basis for each day during which Employee participates in any activity in violation of this Section 2(b) so that Employee is restricted from engaging in the conduct referred to in this Section 2(b) for a full twelve (12) months.

(c) NON-SOLICITATION OF EMPLOYEES. Employee recognizes that he will possess confidential information about other employees of the Company and its subsidiaries or affiliates (including Gifts.com) relating to their education, experience, skills, abilities, compensation and benefits, and inter-personal relationships with suppliers to and customers of the Company and its subsidiaries or affiliates. Employee recognizes that the information he will possess about these other employees is not generally known, is of substantial value to the Company and its subsidiaries or affiliates in developing their respective businesses and in securing and retaining customers, and will be acquired by Employee because of Employee's business position with the Company. Employee agrees that, during Employee's employment hereunder (and for a period of 12 months thereafter), Employee will not, directly or indirectly, hire or solicit or recruit any employee of the Company or any of its subsidiaries or affiliates for the purpose of being employed by Employee or by any business, individual, partnership, firm, corporation or other entity on whose behalf Employee is acting as an agent, representative or employee and that Employee will not convey any such confidential information or trade secrets

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about other employees of the Company or any of its subsidiaries or affiliates to any other person except within the scope of Employee's duties hereunder.

(d) PROPRIETARY RIGHTS; ASSIGNMENT. All Employee Developments shall be works made for hire by the Employee for the Company or any of its subsidiaries or affiliates. "Employee Developments" means any idea, discovery, invention, design, method, technique, improvement, enhancement, development, computer program, machine, algorithm or other work or authorship that (i) relates to the business or operations of the Company or any of its subsidiaries or affiliates, or (ii) results from, is derivative of, or is suggested by, in whole or in part, any (a) undertaking assigned to the Employee or work performed by the Employee for or on behalf of the Company or any of its subsidiaries or affiliates, (b) interaction with other employees of the Company or any of its subsidiaries or affiliates, or (c) information (including Confidential Information) or ideas made available to Employee by virtue of, or in connection with, Employee's employment with the Company, in any case, whether created alone or with others, during or after working hours. All Confidential Information and all Employee Developments shall remain the sole property of the Company or any of its subsidiaries or affiliates. The Employee shall acquire no proprietary interest in any Confidential Information or Employee Developments developed or acquired during the Term. To the extent the Employee may, by operation of law or otherwise, acquire any right, title or interest in or to any Confidential Information or Employee Development, the Employee hereby assigns to the Company all such proprietary rights. The Employee shall, both during and after the Term, upon the Company's request, promptly execute and deliver to the Company all such assignments, certificates and instruments, and shall promptly perform such other acts, as the Company may from time to time in its discretion deem necessary or desirable to evidence, establish, maintain, perfect, enforce or defend the Company's rights in Confidential Information and Employee Developments.

(e) COMPLIANCE WITH POLICIES AND PROCEDURES. During the Term, Employee shall adhere to the policies and standards of professionalism set forth in the Company's Policies and Procedures as they may exist and made available to employees generally from time to time.

(f) REMEDIES FOR BREACH. Employee expressly agrees and understands that Employee will notify the Company in writing of any alleged breach of this Agreement by the Company, and the Company will have 30 days from receipt of Employee's notice to cure any such breach.

Employee expressly agrees and understands that the remedy at law for any breach by Employee of this Section 2 will be inadequate and that damages flowing from such breach are not usually susceptible to being measured in monetary terms. Accordingly, it is acknowledged that upon Employee's violation of any provision of this Section 2 the Company shall be entitled to obtain from any court of competent jurisdiction immediate injunctive relief and obtain a temporary order restraining any threatened or further breach as well as an equitable accounting of all profits or benefits arising out of such violation. Nothing in this Section 2 shall be deemed to limit the

(g) SURVIVAL OF PROVISIONS. The obligations contained in this Section 2 shall, to the extent provided in this Section 2, survive the termination or expiration of Employee's employment with the Company and, as applicable, shall be fully enforceable thereafter in accordance with the terms of this Agreement. If it is determined by a court of competent jurisdiction in any state that any restriction in this Section 2 is excessive in duration or scope or is unreasonable or unenforceable under the laws of that state, it is the intention of the parties that such restriction may be modified or amended by the court to render it enforceable to the maximum extent permitted by the law of that state.

3. TERMINATION OF PRIOR AGREEMENTS. This Agreement constitutes the entire agreement between the parties, and Employee acknowledges that he has waived, effective as of the Effective Date, any and all rights under prior agreements and understandings (whether written or oral) between Employee and IAC or GiftCo, Inc. with respect to the subject matter of this Agreement, including the Prior Agreement, but other than the Gifts.com Units, the Gifts RSU Agreement, and the IAC RSU Agreement dated February 16, 2007. In addition, both the Company and Employee acknowledge that subject to approval of the IAC Compensation Committee, there will also exist Terms and Conditions covering the IAC 2007 RSU Award referenced in this Agreement. Employee acknowledges and agrees that neither the Company nor anyone acting on its behalf has made, and is not making, and in executing this Agreement, the Employee has not relied upon, any representations, promises or inducements except to the extent the same is expressly set forth in this Agreement.

4. ASSIGNMENT; SUCCESSORS. This Agreement is personal in its nature and none of the parties hereto shall, without the consent of the others, assign or transfer this Agreement or any rights or obligations hereunder, provided that, in the event of the merger, consolidation, transfer, or sale of all or substantially all of the assets of the Company with or to any other individual or entity, this Agreement shall, subject to the provisions hereof, be binding upon and inure to the benefit of such successor and such successor shall discharge and perform all the promises, covenants, duties, and obligations of the Company hereunder, and all references herein to the "Company" shall refer to such successor.

5. WITHHOLDING. The Company shall make such deductions and withhold such amounts from each payment and benefit made or provided to Employee hereunder, as may be required from time to time by applicable law, governmental regulation or order.

6. HEADING REFERENCES. Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose. References to "this Agreement" or the use of the term "hereof" shall refer to these Standard Terms and Conditions and the Employment Agreement attached hereto, taken as a whole.

7. WAIVER; MODIFICATION. Failure to insist upon strict compliance with any of the terms, covenants, or conditions hereof shall not be deemed a waiver of such term, covenant, or condition, nor shall any waiver or relinquishment of, or failure to insist upon strict compliance with, any right or power hereunder at any one or more times be deemed a waiver or relinquishment of such right or power at any other time or times. This Agreement shall not be modified in

any respect except by a writing executed by each party hereto. Notwithstanding anything to the contrary herein, neither the assignment of Employee to a different Reporting Officer due to a reorganization or an internal restructuring of the Company or its affiliated companies nor a change in the title of the Reporting Officer shall constitute a modification or a breach of this Agreement.

8. SEVERABILITY. In the event that a court of competent jurisdiction determines that any portion of this Agreement is in violation of any law or public policy, only the portions of this Agreement that violate such law or public policy shall be stricken. All portions of this Agreement that do not violate any statute or public policy shall continue in full force and effect. Further, any court order striking any portion of this Agreement shall modify the stricken terms as narrowly as possible to give as much effect as possible to the intentions of the parties under this Agreement.

9. INDEMNIFICATION. The Company shall indemnify and hold Employee harmless for acts and omissions in Employee's capacity as an officer, director or employee of the Company to the maximum extent permitted under applicable law; provided, however, that neither the Company, nor any of its subsidiaries or affiliates shall indemnify Employee for any losses incurred by Employee as a result of acts described in Section 1(c) of this Agreement.

[The Signature Page Follows]

ACKNOWLEDGED AND AGREED:

Date: November 19, 2007

HSN GENERAL PARTNER LLC

/s/ Lisa Letizio  
By: Lisa Letizio  
Title: EVP, Human Resources

IAC/INTERACTIVECORP  
(Solely for purposes of Section 3)

/s/ Gregory R. Blatt  
By: Gregory R. Blatt  
Title: EVP, General Counsel & Secretary

/s/ William J. Lynch, Jr.  
William J. Lynch, Jr.

**Notice of 2007 Restricted Stock Unit Award Granted Under the  
IAC/InterActiveCorp 2005 Stock and Annual Incentive Plan**

**Award Recipient:** William Lynch

**Award Date:** t/b/c , 2007

**Annual Vesting Award:** 50,000 RSUs

**Annual Vesting Award Vesting Schedule:** Subject to continued employment with IAC or its subsidiaries, your 2007 Annual Vesting Award shall vest as follows:

<u>Vesting Schedule</u>	<u>Shares Vesting</u>
November 19, 2008	8,300
November 19, 2009	9,150
November 19, 2010	10,850
November 19, 2011	10,850
November 19, 2012	10,850

**Terms and Conditions:** The Award is subject to its Terms and Conditions attached hereto and to the Plan posted on <http://corp.iac.com/HR/IACStock.aspx> and [www.benefitaccess.com](http://www.benefitaccess.com) and are incorporated herein by reference.

**Without a complete review of these documents, you will not have a full understanding of all the material terms of your 2007 IAC equity award. In addition, you will be required to acknowledge and accept the Terms and Conditions applicable to your 2007 IAC equity awards. Your failure to do so upon request will result in these awards being null and void.**

**Terms and Conditions for Annual Vesting Awards**

**Overview**

These Terms and Conditions apply to Annual Vesting Awards of restricted stock units granted pursuant to Section 7 of the IAC/InterActiveCorp 2005 Stock and Annual Incentive Plan (the "Plan"). You were notified of your Annual Vesting Award by way of an award notice (the "Award Notice").

**ALL CAPITALIZED TERMS USED HEREIN, TO THE EXTENT NOT DEFINED, SHALL HAVE THE MEANINGS SET FORTH IN THE PLAN.**

**Continuous Service**

In order for your Annual Vesting Award to vest, you must be continuously employed by IAC or any of its Subsidiaries or Affiliates *excluding* Expedia, Inc. and its subsidiaries during the Restriction Period (as defined below). Nothing in your Award Notice, these Terms and Conditions or the Plan shall confer upon you any right to continue in the employ or service of IAC or any of its Subsidiaries or Affiliates or interfere in any way with their rights to terminate your employment or service at any time.

**Vesting**

Subject to the Award Notice, these Terms and Conditions and the Plan, the RSUs in respect of your Annual Vesting Award shall vest and no longer be subject to any restriction (such period during which restrictions apply is the "Restriction Period") as follows:

<u>Vesting Date</u>	<u>Number of Shares Vesting</u>
November 19, 2008	8,300
November 19, 2009	9,150
November 19, 2010	10,850
November 19, 2011	10,850
November 19, 2012	10,850

**Termination of Employment**

Upon the termination of your employment by IAC or any of its Subsidiaries or Affiliates for any reason other than your death or Disability or for Cause or if you resign for Good Reason (as defined in your Employment Agreement) during the Restriction Period, the portion of your Annual Vesting Award that would have vested through the date of your termination of employment if the Annual Vesting Award vested in equal installments of 20% per year (or 10,000 RSUs) shall vest, and the remaining unvested portion of your Annual Vesting Award shall be forfeited and canceled in its entirety effective immediately upon such termination of employment. For example, if you resign for Good Reason on September 19, 2010 (e.g. after the second vesting of RSU's but prior to the November 19, 2010 vesting), 2,550 RSUs will vest and the remaining 30,000 RSUs will be forfeited and canceled.



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If your employment is terminated by IAC or any of its Subsidiaries or Affiliates for Cause, or if following any termination of employment between you and IAC or any of its Subsidiaries or Affiliates for any reason IAC determines that during the two years prior to such termination there was an event or circumstance that would have been grounds for termination for Cause, your Annual Vesting Award shall be forfeited and canceled in its entirety upon such termination, and IAC may cause you, immediately upon notice, either to return the shares or cash issued upon the settlement of RSUs that vested during the two-year period after the events or circumstances giving rise to or constituting grounds for termination for Cause or to pay IAC an amount equal to the aggregate amount, if any, that you had previously realized in respect of any and all shares issued upon settlement of RSUs that vested during the two-year period after the events or circumstances giving rise to or constituting grounds for such termination for Cause (*i.e.*, the value of the RSUs upon vesting), in each case, including any dividend equivalents or other distributions received in respect of any such RSUs. This remedy shall be without prejudice to, or waiver of, any other remedies IAC or its Subsidiaries or Affiliates may have in such event.

#### **Settlement**

Subject to your satisfaction of the tax obligations described immediately below under “Taxes and Withholding,” as soon as practicable after any RSUs in respect of your Annual Vesting Award have vested and are no longer subject to the Restriction Period, such RSUs shall be settled. For each RSU settled, IAC shall (i) if you are employed within the United States, issue one share of Common Stock for each RSU vesting or (ii) if you are employed outside the United States, pay, or cause to be paid, to you an amount of cash equal to the Fair Market Value of one share of Common Stock for each RSU vesting. Notwithstanding the foregoing, IAC shall be entitled to hold the shares or cash issuable to you upon settlement of all RSUs that have vested until IAC or the agent selected by IAC to administer the Plan (the “Agent”) has received from you (i) a duly executed Form W-9 or W-8, as applicable or (ii) payment for any federal, state, local or foreign taxes of any kind required by law to be withheld with respect to such RSUs.

#### **Taxes and Withholding**

No later than the date as of which an amount in respect of any RSUs first becomes includible in your gross income for federal, state, local or foreign income or employment or other tax purposes, IAC or its Subsidiaries and/or Affiliates shall, unless prohibited by law, have the right to deduct any federal, state, local or foreign taxes of any kind required by law to be withheld with respect to such amount due to you, including deducting such amount from the delivery of shares or cash issued upon settlement of the RSUs that gives rise to the withholding requirement. In the event shares are deducted to cover tax withholdings, the number of shares withheld shall generally have a Fair Market Value equal to the aggregate amount of IAC’s withholding obligation. If the event that any such deduction and/or withholding is prohibited by law, you shall, prior to or contemporaneously with the vesting or your RSUs, pay to IAC, or make arrangements satisfactory to IAC regarding the payment of, any federal, state, local or foreign taxes of any kind required by law to be withheld with respect to such amount.

#### **Adjustment in the Event of Change in Stock; Change in Control**

In the event of (i) a stock dividend, stock split, reverse stock split, share combination, or recapitalization or similar event affecting the capital structure of IAC (each, a “Share Change”),

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or (ii) a merger, consolidation, acquisition of property or shares, separation, spin-off, reorganization, stock rights offering, liquidation, Disaffiliation, or similar event affecting IAC or any of its Subsidiaries (each, a “Corporate Transaction”), the Compensation and Human Resources Committee (the “Committee”) or the Board will make such substitutions or adjustments, if any, as it, in its good faith and sole discretion, deems appropriate and equitable to the number of RSUs and the number and kind of shares of Common Stock underlying the RSUs. The determination of the Committee regarding any such adjustment will be final and conclusive and need not be the same for all RSU award recipients (including, but not limited to, recipients of Annual Vesting Awards).

In the event you cease to be employed by either IAC or any of its Subsidiaries or Affiliates within the two year period following a Change in Control as a result of (i) a termination by IAC or any of its Subsidiaries or Affiliates without Cause, (ii) your death or Disability or (iii) a resignation by you for Good Reason (as defined in Section 10 of the Plan), then upon the occurrence of such termination of employment, 100% of your Annual Vesting Award shall automatically vest.

#### **Non-Transferability of the RSUs**

Until such time as your RSUs are ultimately settled, they shall not be transferable by you by means of sale, assignment, exchange, encumbrance, pledge, hedge or otherwise.

#### **No Rights as a Stockholder**

Except as otherwise specifically provided in the Plan, unless and until your RSUs are settled, you shall not be entitled to any rights of a stockholder with respect to the RSUs. Notwithstanding the foregoing, if IAC declares and pays dividends on the Common Stock during the Restriction Period for particular RSUs in respect of your Annual Vesting Award, you will be credited with additional amounts for each RSU underlying such Annual Vesting Award equal to the dividend that would have been paid with respect to such RSU as if it had been an actual share of Common Stock, which amount shall remain subject to restrictions (and as determined by the Committee may be reinvested in RSUs or may be held in kind as restricted property) and shall vest concurrently with the vesting of the RSUs upon which such dividend equivalent amounts were paid. Notwithstanding the foregoing, dividends and distributions other than regular quarterly cash dividends, if any, may result in an adjustment pursuant to the “Adjustment in the Event of Change in Stock; Change in Control” section above.

#### **Other Restrictions**

The RSUs shall be subject to the requirement that, if at any time the Committee shall determine that (i) the listing, registration or qualification of the shares of Common Stock subject or related thereto upon any securities exchange or under any state or federal law, or (ii) the consent or approval of any government regulatory body is necessary or desirable as a condition of, or in connection with, the delivery of shares, then in any such event, the award of RSUs shall not be effective unless such listing, registration, qualification, consent or approval shall have been effected or obtained free of any conditions not acceptable to the Committee.

#### **Conflicts and Interpretation**

In the event of any conflict between these Terms and Conditions and the Plan, the Plan shall control. In the event of any ambiguity in these Terms and Conditions, or any matters as to which these Terms and Conditions are silent, the Plan shall govern. In the event of any conflict

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between the Award Notice (or any other information posted on IAC's extranet or given to you directly or indirectly through the Agent (including information posted on [www.benefitaccess.com](http://www.benefitaccess.com))) and IAC's books and records, or (ii) ambiguity in the Award Notice (or any other information posted on IAC's extranet or given to you directly or indirectly through the Agent (including information posted on [www.benefitaccess.com](http://www.benefitaccess.com))), IAC's books and records shall control.

#### **Amendment**

IAC may modify, amend or waive the terms of your RSUs, prospectively or retroactively, but no such modification, amendment or waiver shall materially impair your rights without your consent, except as required by applicable law, NASDAQ or stock exchange rules, tax rules or accounting rules.

#### **Data Protection**

The acceptance of your RSUs constitutes your authorization of the release from time to time to IAC or any of its Subsidiaries or Affiliates and to the Agent (together, the "Relevant Companies") of any and all personal or professional data that is necessary or desirable for the administration of your RSUs and/or the Plan (the "Relevant Information"). Without limiting the above, this authorization permits your employing company to collect, process, register and transfer to the Relevant Companies all Relevant Information (including any professional and personal data that may be useful or necessary for the purposes of the administration of your RSUs and/or the Plan and/or to implement or structure any further grants of equity awards (if any)). The acceptance of your RSUs also constitutes your authorization of the transfer of the Relevant Information to any jurisdiction in which IAC, your employing company or the Agent considers appropriate. You shall have access to, and the right to change, the Relevant Information, which will only be used in accordance with applicable law.

#### **Section 409A of the Code**

Annual Vesting Awards are not intended to constitute "nonqualified deferred compensation" within the meaning of Section 409A of the Internal Revenue Code of 1986, as amended, and the rules and regulations issued thereunder ("Section 409A"). Accordingly, if any amounts or benefits payable in respect of your Annual Vesting Award are (i) payable upon a termination of employment and (ii) if you are a "Specified Employee" (as defined under Section 409A) as of the date of your termination of employment, then such amounts or benefits (if any) shall be paid or provided to you in a single lump sum on the first business day after the date that is six months following your termination of employment.

In no event shall IAC be required to pay you any "gross-up" or other payment with respect to any taxes or penalties imposed under Section 409A with respect to any amounts or benefits paid to you in respect of your Annual Vesting Award.

#### **Notification of Changes**

Any changes to these Terms and Conditions shall either be posted on IAC's extranet and [www.benefitaccess.com](http://www.benefitaccess.com) or communicated (either directly by IAC or indirectly through any of its Subsidiaries, Affiliates or the Agent) to you electronically via e-mail (or otherwise in writing) promptly after such change becomes effective. **You are therefore urged to periodically check these Terms and Conditions to determine whether any changes have been made.**



foregoing, if this Agreement or any benefit paid to Employee hereunder is subject to Section 409A and if Employee is a "Specified Employee" (as defined under Section 409A) as of the date of Employee's termination of employment hereunder, then the payment of benefits, if any, scheduled to be paid by the Company to Employee hereunder during the first six (6) month period beginning the date of a termination of employment hereunder shall be delayed during such six (6) month period and shall commence immediately following the end of such six (6) month period (and the period in which such payments were scheduled to be made if not for such delay shall be extended accordingly). In no event shall the Company be required to pay Employee any "gross-up" or other payment with respect to any taxes or penalties imposed under Section 409A with respect to any benefit paid to Employee hereunder.

[The Signature Page Follows]

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IN WITNESS WHEREOF, the Company has caused this Agreement to be executed and delivered by its duly authorized officer, and Employee has executed and delivered this Agreement on October 5, 2007

HSN GENERAL PARTNER LLC

By: /s/ Lisa Letizio  
Name: Lisa Letizio  
Title: EVP Human Resources

By: /s/ Lynne Ronan  
Name: Lynne Ronan  
Title: EVP Human Resources

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STANDARD TERMS AND CONDITIONS

1. TERMINATION OF EMPLOYEE'S EMPLOYMENT.

(a) DEATH. In the event Employee's employment hereunder is terminated by reason of Employee's death, the Company shall pay Employee's designated beneficiary or beneficiaries, within 30 days of Employee's death in a lump sum in cash, Employee's Base Salary through the end of the month in which death occurs and any Accrued Obligations (as defined in paragraph 1(f) below).

(b) DISABILITY. If, as a result of Employee's incapacity due to physical or mental illness ("Disability"), Employee shall have been absent from the full-time performance of Employee's duties with the Company for a period of four consecutive months and, within 30 days after written notice is provided to Employee by the Company (in accordance with Section 6 hereof), Employee shall not have returned to the full-time performance of Employee's duties, Employee's employment under this Agreement may be terminated by the Company for Disability. During any period prior to such termination during which Employee is absent from the full-time performance of Employee's duties with the Company due to Disability, the Company shall continue to pay Employee's Base Salary at the rate in effect at the commencement of such period of Disability, offset by any amounts payable to Employee under any disability insurance plan or policy provided by the Company. Upon termination of Employee's employment due to Disability, the Company shall pay Employee within 30 days of such termination (i) Employee's Base Salary through the end of the month in which termination occurs in a lump sum in cash, offset by any amounts payable to Employee under any disability insurance plan or policy provided by the Company; and (ii) any Accrued Obligations (as defined in paragraph 1(f) below).

(c) TERMINATION FOR CAUSE. The Company may terminate Employee's employment under this Agreement for Cause at any time prior to the expiration of the Term. As used herein, "Cause" shall mean: (i) the plea of guilty or nolo contendere to, or conviction for, the commission of a felony offense by Employee; provided, however, that after indictment, the Company may suspend Employee from the rendition of services, but without limiting or modifying in any other way the Company's obligations under this Agreement; (ii) a material breach by Employee of a fiduciary duty owed to the Company; (iii) a material breach by Employee of any of the covenants made by Employee in Section 2 hereof; (iv) the willful or gross neglect by Employee of the material duties required by this Agreement; or (v) a material violation of any Company policy pertaining to ethics, wrongdoing or conflicts of interest that, in the case of the conduct described in clause (iii) or (iv) above, if curable, is not cured by Employee within ten (10) days after Employee is provided with written notice thereof. In the event of Employee's termination for Cause, this Agreement shall terminate without further obligation by the Company, except for the payment of any Accrued Obligations (as defined in paragraph 1(f) below).

(d) TERMINATION BY THE COMPANY OTHER THAN FOR DEATH, DISABILITY OR CAUSE If Employee's employment is terminated by the Company for any

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reason other than Employee's death or Disability or for Cause, then (i) the Company shall pay Employee the Base Salary through the end of the Term over the course of the then remaining Term; and (ii) the Company shall pay Employee within 30 days of the date of such termination in a lump sum in cash any Accrued Obligations (as defined in paragraph 1(f) below). The payment to Employee of the severance benefits described in this Section 1(d) shall be subject to Employee's execution and non-revocation of a general release of the Company and its affiliates in a form substantially similar to that used for similarly situated executives of the Company and its affiliates.

(e) MITIGATION; OFFSET. In the event of termination of Employee's employment prior to the end of the Term, Employee shall use reasonable best efforts to seek other employment and to take other reasonable actions to mitigate the amounts payable under Section 1 hereof. If Employee obtains other employment during the Term, the amount of any payment or benefit provided for under Section 1 hereof which has been paid to Employee shall be refunded to the Company by Employee in an amount equal to any compensation earned by Employee as a result of employment with or services provided to another employer after the date of Employee's termination of employment and prior to the otherwise applicable expiration of the Term, and all future amounts payable by the Company to Employee during the remainder of the Term shall be offset by the amount earned by Employee from another employer. For purposes of this Section 1(e), Employee shall have an obligation to inform the Company regarding Employee's employment status following termination and during the period encompassing the Term.

(f) ACCRUED OBLIGATIONS. As used in this Agreement, "Accrued Obligations" shall mean the sum of (i) any portion of Employee's Base Salary through the date of death or termination of employment for any reason, as the case may be, which has not yet been paid; and (ii) any compensation previously earned but deferred by Employee (together with any interest or earnings thereon) that has not yet been paid.

2. CONFIDENTIALITY; NON-COMPETITION; NON-SOLICITATION; PROPRIETARY RIGHTS; OTHERS.

(a) CONFIDENTIALITY. Employee acknowledges that while employed by the Company Employee will occupy a position of trust and confidence. Employee shall not, except as may be required to perform Employee's duties hereunder or as required by applicable law, without limitation in time or until such information shall have become public other than by Employee's unauthorized disclosure, disclose to others or use, whether directly or indirectly, any Confidential Information regarding the Company or any of its subsidiaries or affiliates. "Confidential Information" shall mean information about the Company or any of its subsidiaries or affiliates, and their clients and customers that is not disclosed by the Company or any of its subsidiaries or affiliates for financial reporting purposes and that was learned by Employee in the course of employment by the Company or any of its subsidiaries or affiliates, including (without limitation) any proprietary knowledge, trade secrets, data, formulae, information and client and customer lists and all papers, resumes, and records (including computer records) of the documents containing such Confidential Information. Employee acknowledges that such Confidential Information is specialized, unique in nature and of great value to the Company and its subsidiaries or affiliates, and that such information gives the Company and its subsidiaries or

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affiliates a competitive advantage. Employee agrees to deliver or return to the Company, at the Company's request at any time or upon termination or expiration of Employee's employment or as soon thereafter as possible, all documents, computer tapes and disks, records, lists, data, drawings, prints, notes and written information (and all copies thereof) furnished by the Company and its subsidiaries or affiliates or prepared by Employee in the course of Employee's employment by the Company and its subsidiaries or affiliates. As used in this Agreement, "subsidiaries" and "affiliates" shall mean any company controlled by, controlling or under common control with the Company.

(b) NON-COMPETITION. During Employee's employment with the Company and for twelve (12) months thereafter, Employee shall not, directly or indirectly, on behalf of Employee or on behalf of or with any other person, enterprise or entity, in any individual or representative capacity, engage or participate in any business, including its affiliated Internet entities, that is in competition with the Company or any subsidiary or affiliate of the Company in the United States of America in the field of television retailing, including, without limitation, QVC, Shop NBC (formerly called ValueVision) or World Shopping Source (aka WSS), or Jewelry Television, aka America's Collectibles Network, Inc., or ACNTV, as well as any company which subsequently enters the field of television retailing as its primary business (collectively, the "Competing Companies"). Employee's obligations under this Section shall continue during the Term and for the period after the Term set forth above and shall not, for any reason, cease upon termination of Employee's employment with the Company. Notwithstanding anything else contained in this Section, Employee may own, for investment purposes only, up to five percent (5%) of the stock of any Competing Company if it is a publicly-held corporation whose stock is either listed on a national stock exchange or on the NASDAQ National Market System and if Employee is not otherwise affiliated with or participating in such corporation. As used herein, "participate" means lending one's name to, acting as consultant or advisor to, being employed by or acquiring any direct or indirect interest in any business or enterprise, whether as a stockholder, partner, officer, director, employee, consultant or otherwise. In the event that (1) the Company or any of its subsidiaries or affiliates places, or has placed for it, all or substantially all of its assets up for sale within one (1) year after termination of Employee's employment hereunder or (2) Employee's employment is terminated in connection with the disposition of all or substantially all of such assets (whether by sale of assets, equity or otherwise), Employee agrees to be bound by, and to execute such additional instruments as may be necessary or desirable to evidence Employee's agreement to be bound by, the terms and conditions of any non-competition provisions relating to the purchase and sale agreement for such assets, without any consideration beyond that expressed in this Agreement, provided that the purchase and sale agreement is negotiated in good faith with customary terms and provisions and the transaction contemplated thereby is consummated. Notwithstanding the foregoing, in no event shall Employee be bound by, or obligated to enter into, any non-competition provisions referred to in this Section 2(b) which extend beyond twelve (12) months, in each case from the date of termination of Employee's employment hereunder or whose scope extends the scope of the non-competition provisions set forth in this Section 2(b). The twelve (12) month time period referred to above shall be tolled on a day-for-day basis for each day during which Employee participates in any activity in violation of this Section 2(b) so that Employee is restricted from engaging in the conduct referred to in this Section 2(b) for a full twelve (12) months.

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(b) NON-SOLICITATION OF EMPLOYEES. Employee recognizes that he will possess confidential information about other employees of the Company and its subsidiaries or affiliates relating to their education, experience, skills, abilities, compensation and benefits, and inter-personal relationships with suppliers to and customers of the Company and its subsidiaries or affiliates. Employee recognizes that the information he will possess about these other employees is not generally known, is of substantial value to the Company and its subsidiaries or affiliates in developing their respective businesses and in securing and retaining customers, and will be acquired by Employee because of Employee's business position with the Company. Employee agrees that, during the Term (and for a period of 12 months beyond the expiration of the Term), Employee will not, directly or indirectly, solicit or recruit any employee of the Company or any of its subsidiaries or affiliates for the purpose of being employed by Employee or by any business, individual, partnership, firm, corporation or other entity on whose behalf Employee is acting as an agent, representative or employee and that Employee will not convey any such confidential information or trade secrets about other employees of the Company or any of its subsidiaries or affiliates to any other person except within the scope of Employee's duties hereunder. Notwithstanding the foregoing, Employee is not precluded from soliciting any individual who (i) responds to any public advertisement or general solicitation or (ii) has been terminated by the Company or any of its subsidiaries or affiliates prior to the solicitation.

(c) PROPRIETARY RIGHTS; ASSIGNMENT. All Employee Developments shall be made for hire by the Employee for the Company or any of its subsidiaries or affiliates. "Employee Developments" means any idea, discovery, invention, design, method, technique, improvement, enhancement, development, computer program, machine, algorithm or other work or authorship that (i) relates to the business or operations of the Company or any of its subsidiaries or affiliates, or (ii) results from or is suggested by any undertaking assigned to the Employee or work performed by the Employee for or on behalf of the Company or any of its subsidiaries or affiliates, whether created alone or with others, during or after working hours. All Confidential Information and all Employee Developments shall remain the sole property of the Company or any of its subsidiaries or affiliates. The Employee shall acquire no proprietary interest in any Confidential Information or Employee Developments developed or acquired during the Term. To the extent the Employee may, by operation of law or otherwise, acquire any right, title or interest in or to any Confidential Information or Employee Development, the Employee hereby assigns to the Company all such proprietary rights. The Employee shall, both during and after the Term, upon the Company's request, promptly execute and deliver to the Company all such assignments, certificates and instruments, and shall promptly perform such other acts, as the Company may from time to time in its discretion deem necessary or desirable to evidence, establish, maintain, perfect, enforce or defend the Company's rights in Confidential Information and Employee Developments.

(d) COMPLIANCE WITH POLICIES AND PROCEDURES. During the Term, Employee shall adhere to the policies and standards of professionalism set forth in the Company's Policies and Procedures as they may exist from time to time.

(e) REMEDIES FOR BREACH. Employee expressly agrees and understands that Employee will notify the Company in writing of any alleged breach of this Agreement by the

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Company, and the Company will have 30 days from receipt of Employee's notice to cure any such breach.

Employee expressly agrees and understands that the remedy at law for any breach by Employee of this Section 2 may be inadequate and that damages flowing from such breach may not be susceptible to being measured in monetary terms. Accordingly, it is acknowledged that upon Employee's violation of any provision of

this Section 2 the Company may be entitled to obtain from any court of competent jurisdiction immediate injunctive relief and obtain a temporary order restraining any threatened or further breach as well as an equitable accounting of all profits or benefits arising out of such violation. Nothing in this Section 2 shall be deemed to limit the Company's remedies at law or in equity for any breach by Employee of any of the provisions of this Section 2, which may be pursued by or available to the Company.

(f) **SURVIVAL OF PROVISIONS.** The obligations contained in this Section 2 shall, to the extent provided in this Section 2, survive the termination or expiration of Employee's employment with the Company and, as applicable, shall be fully enforceable thereafter in accordance with the terms of this Agreement. If it is determined by a court of competent jurisdiction in any state that any restriction in this Section 2 is excessive in duration or scope or is unreasonable or unenforceable under the laws of that state, it is the intention of the parties that such restriction may be modified or amended by the court to render it enforceable to the maximum extent permitted by the law of that state.

3. **TERMINATION OF PRIOR AGREEMENTS.** This Agreement and the Offer Letter between the Company and the Employee dated August 27, 2007 and attached hereto as Exhibit A (collectively, this Agreement and the Offer Letter shall be considered "this Agreement" for the purposes of this Section) constitutes the entire agreement between the parties and terminates and supersedes any and all prior agreements and understandings (whether written or oral) between the parties with respect to the subject matter of this Agreement. Employee acknowledges and agrees that neither the Company nor anyone acting on its behalf has made, and is not making, and in executing this Agreement, the Employee has not relied upon, any representations, promises or inducements except to the extent the same is expressly set forth in this Agreement. Employee hereby represents and warrants that by entering into this Agreement, Employee will not rescind or otherwise breach an employment agreement with Employee's current employer prior to the natural expiration date of such agreement

4. **ASSIGNMENT; SUCCESSORS.** This Agreement is personal in its nature and none of the parties hereto shall, without the consent of the others, assign or transfer this Agreement or any rights or obligations hereunder, provided that, in the event of the merger, consolidation, transfer, or sale of all or substantially all of the assets of the Company with or to any other individual or entity, this Agreement shall, subject to the provisions hereof, be binding upon and inure to the benefit of such successor and such successor shall discharge and perform all the promises, covenants, duties, and obligations of the Company hereunder, and all references herein to the "Company" shall refer to such successor.

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5. **WITHHOLDING.** The Company shall make such deductions and withhold such amounts from each payment and benefit made or provided to Employee hereunder, as may be required from time to time by applicable law, governmental regulation or order.

6. **HEADING REFERENCES.** Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose. References to "this Agreement" or the use of the term "hereof" shall refer to these Standard Terms and Conditions and the Employment Agreement attached hereto, taken as a whole.

7. **WAIVER; MODIFICATION.** Failure to insist upon strict compliance with any of the terms, covenants, or conditions hereof shall not be deemed a waiver of such term, covenant, or condition, nor shall any waiver or relinquishment of, or failure to insist upon strict compliance with, any right or power hereunder at any one or more times be deemed a waiver or relinquishment of such right or power at any other time or times. This Agreement shall not be modified in any respect except by a writing executed by each party hereto. Notwithstanding anything to the contrary herein, neither the assignment of Employee to a different Reporting Officer due to a reorganization or an internal restructuring of the Company or its affiliated companies nor a change in the title of the Reporting Officer shall constitute a modification or a breach of this Agreement.

8. **SEVERABILITY.** In the event that a court of competent jurisdiction determines that any portion of this Agreement is in violation of any law or public policy, only the portions of this Agreement that violate such law or public policy shall be stricken. All portions of this Agreement that do not violate any statute or public policy shall continue in full force and effect. Further, any court order striking any portion of this Agreement shall modify the stricken terms as narrowly as possible to give as much effect as possible to the intentions of the parties under this Agreement.

9. **INDEMNIFICATION.** The Company shall indemnify and hold Employee harmless for acts and omissions in Employee's capacity as an officer, director or employee of the Company to the maximum extent permitted under applicable law; provided, however, that neither the Company, nor any of its subsidiaries or affiliates shall indemnify Employee for any losses incurred by Employee as a result of acts described in Section 1(c) of this Agreement.

ACKNOWLEDGED AND AGREED:

Date: October 05, 2007

HSN GENERAL PARTNER LLC

By: /s/ Lisa Letizio  
Name: Lisa Letizio  
Title: EVP Human Resources

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By: /s/ Lynne Ronan  
Name: Lynne Ronan  
Title: EVP Human Resources

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EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT ("Agreement") is entered into by and between Judy A. Schmeling ("Employee") and HSN General Partner LLC, a Delaware limited liability company (the "Company"), and is effective April 1, 2007 (the "Effective Date").

WHEREAS, the Company desires to establish its right to the services of Employee, in the capacity described below, on the terms and conditions hereinafter set forth, and Employee is willing to accept such employment on such terms and conditions.

NOW, THEREFORE, in consideration of the mutual agreements hereinafter set forth, Employee and the Company have agreed and do hereby agree as follows:

1A. EMPLOYMENT. The Company agrees to employ Employee as Chief Financial Officer, HSN US, and Employee accepts and agrees to such employment. During Employee's employment with the Company, Employee shall do and perform all services and acts necessary or advisable to fulfill the duties and responsibilities as are commensurate and consistent with Employee's position and shall render such services on the terms set forth herein. During Employee's employment with the Company, Employee shall report directly such person(s) as from time to time may be designated by the Company (hereinafter referred to as the "Reporting Officer"). Employee shall have such powers and duties with respect to the Company as may reasonably be assigned to Employee by the Reporting Officer, to the extent consistent with Employee's position and status. Employee agrees to devote all of Employee's working time, attention and efforts to the Company and to perform the duties of Employee's position in accordance with the Company's policies as in effect from time to time. Employee's principal place of employment shall be the Company's offices located in St. Petersburg, Florida. Employee shall not be obligated to travel away from St. Petersburg, Florida for more than 25 business days in each year of the Term of this Agreement.

2A. TERM OF AGREEMENT. The term ("Term") of this Agreement shall commence on the Effective Date and shall continue for two (2) years, unless sooner terminated in accordance with the provisions of Section 1 of the Standard Terms and Conditions attached hereto.

3A. COMPENSATION.

(a) BASE SALARY. During the Term of this Agreement, the Company shall pay Employee an annual base salary of \$400,000 (the "Base Salary"), payable in equal biweekly installments or in accordance with the Company's payroll practice as in effect from time to time. For all purposes under this Agreement, the term "Base Salary" shall refer to Base Salary as in effect from time to time.

(b) DISCRETIONARY BONUS. During the Term, Employee shall be eligible to receive discretionary annual bonuses.

(c) BENEFITS. From the Effective Date through the date of termination of Employee's employment with the Company for any reason, Employee shall be entitled to

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participate in any welfare, health and life insurance and pension benefit and incentive programs as may be adopted from time to time by the Company on the same basis as that provided to similarly situated employees of the Company. Without limiting the generality of the foregoing, Employee shall be entitled to the following benefits:

(i) Reimbursement for Business Expenses. During the Term, the Company shall reimburse Employee for all reasonable and necessary expenses incurred by Employee in performing Employee's duties for the Company, on the same basis as similarly situated employees and in accordance with the Company's policies as in effect from time to time.

(ii) Paid Time Off ("PTO"). During the Term, Employee shall be entitled to paid time off per year, in accordance with the plans, policies, programs and practices of the Company applicable to similarly situated employees of the Company generally.

4A. NOTICES. All notices and other communications under this Agreement shall be in writing and shall be given by first-class mail, certified or registered with return receipt requested or hand delivery acknowledged in writing by the recipient personally, and shall be deemed to have been duly given three days after mailing or immediately upon duly acknowledged hand delivery to the respective persons named below:

If to the Company:                    HSN General Partner LLC  
     1 HSN Drive  
     St. Petersburg, FL 33729  
     Attention: General Counsel

If to Employee:                        Judy A. Schmeling  
     13624 Diamond Head Dr.  
     Tampa, FL 33624

Either party may change such party's address for notices by notice duly given pursuant hereto.

5A. GOVERNING LAW; JURISDICTION. This Agreement and the legal relations thus created between the parties hereto shall be governed by and construed under and in accordance with the internal laws of the State of Florida without reference to the principles of conflicts of laws. Any and all disputes between the parties which may arise pursuant to this Agreement will be heard and determined before an appropriate federal court in Pinellas or Hillsborough Counties or, if not maintainable therein, then in an appropriate Florida state court. The parties acknowledge that such courts have jurisdiction to interpret and enforce the provisions of this Agreement, and the parties consent to, and waive any and all objections that they may have as to, personal jurisdiction and/or venue in such courts.

6A. COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same instrument. Employee expressly understands and acknowledges that the Standard Terms and Conditions attached hereto are incorporated herein by reference, deemed a part of this

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Agreement and are binding and enforceable provisions of this Agreement. References to "this Agreement" or the use of the term "hereof" shall refer to this Agreement and the Standard Terms and Conditions attached hereto, taken as a whole.

IN WITNESS WHEREOF, the Company has caused this Agreement to be executed and delivered by its duly authorized officer, and Employee has

HSN GENERAL PARTNER LLC

By: /s/ Lisa Letizio  
Name: Lisa Letizio  
Title: EVP Human Resources

By: /s/ Judy A. Schmeling  
Name: Judy A. Schmeling

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STANDARD TERMS AND CONDITIONS

1. TERMINATION OF EMPLOYEE'S EMPLOYMENT.

(a) DEATH. In the event Employee's employment hereunder is terminated by reason of Employee's death, the Company shall pay Employee's designated beneficiary or beneficiaries, within 30 days of Employee's death in a lump sum in cash, Employee's Base Salary through the end of the month in which death occurs and any Accrued Obligations (as defined in paragraph 1(f) below).

(b) DISABILITY. If, as a result of Employee's incapacity due to physical or mental illness ("Disability"), Employee shall have been absent from the full-time performance of Employee's duties with the Company for a period of four consecutive months and, within 30 days after written notice is provided to Employee by the Company (in accordance with Section 6 hereof), Employee shall not have returned to the full-time performance of Employee's duties, Employee's employment under this Agreement may be terminated by the Company for Disability. During any period prior to such termination during which Employee is absent from the full-time performance of Employee's duties with the Company due to Disability, the Company shall continue to pay Employee's Base Salary at the rate in effect at the commencement of such period of Disability, offset by any amounts payable to Employee under any disability insurance plan or policy provided by the Company. Upon termination of Employee's employment due to Disability, the Company shall pay Employee within 30 days of such termination (i) Employee's Base Salary through the end of the month in which termination occurs in a lump sum in cash, offset by any amounts payable to Employee under any disability insurance plan or policy provided by the Company; and (ii) any Accrued Obligations (as defined in paragraph 1(f) below).

(c) TERMINATION FOR CAUSE. The Company may terminate Employee's employment under this Agreement for Cause at any time prior to the expiration of the Term. As used herein, "Cause" shall mean: (i) the plea of guilty or nolo contendere to, or conviction for, the commission of a felony offense by Employee; provided, however, that after indictment, the Company may suspend Employee from the rendition of services, but without limiting or modifying in any other way the Company's obligations under this Agreement; (ii) a material breach by Employee of a fiduciary duty owed to the Company; (iii) a material breach by Employee of any of the covenants made by Employee in Section 2 hereof; (iv) the willful or gross neglect by Employee of the material duties required by this Agreement; or (v) a violation of any Company policy pertaining to ethics, wrongdoing or conflicts of interest. In the event of Employee's termination for Cause, this Agreement shall terminate without further obligation by the Company, except for the payment of any Accrued Obligations (as defined in paragraph 1(f) below).

(d) TERMINATION BY THE COMPANY OTHER THAN FOR DEATH, DISABILITY OR CAUSE. If Employee's employment is terminated by the Company for any reason other than Employee's death or Disability or for Cause, then (i) the Company shall pay Employee the Base Salary through the end of the Term over the course of the then remaining

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Term; and (ii) the Company shall pay Employee within 30 days of the date of such termination in a lump sum in cash any Accrued Obligations (as defined in paragraph 1(f) below). The payment to Employee of the severance benefits described in this Section 1(d) shall be subject to Employee's execution and non-revocation of a general release of the Company and its affiliates in a form substantially similar to that used for similarly situated executives of the Company and its affiliates.

(e) MITIGATION; OFFSET. In the event of termination of Employee's employment prior to the end of the Term, Employee shall use reasonable best efforts to seek other employment and to take other reasonable actions to mitigate the amounts payable under Section 1 hereof. If Employee obtains other employment during the Term, the amount of any payment or benefit provided for under Section 1 hereof which has been paid to Employee shall be refunded to the Company by Employee in an amount equal to any compensation earned by Employee as a result of employment with or services provided to another employer after the date of Employee's termination of employment and prior to the otherwise applicable expiration of the Term, and all future amounts payable by the Company to Employee during the remainder of the Term shall be offset by the amount earned by Employee from another employer. For purposes of this Section 1(e), Employee shall have an obligation to inform the Company regarding Employee's employment status following termination and during the period encompassing the Term.

(f) ACCRUED OBLIGATIONS. As used in this Agreement, "Accrued Obligations" shall mean the sum of (i) any portion of Employee's Base Salary through the date of death or termination of employment for any reason, as the case may be, which has not yet been paid; and (ii) any compensation previously earned but deferred by Employee (together with any interest or earnings thereon) that has not yet been paid.

2. CONFIDENTIAL INFORMATION; NON-COMPETITION; NON-SOLICITATION; AND PROPRIETARY RIGHTS.

(a) CONFIDENTIALITY. Employee acknowledges that while employed by the Company Employee will occupy a position of trust and confidence. Employee shall not, except as may be required to perform Employee's duties hereunder or as required by applicable law, without limitation in time or until such information shall have become public other than by Employee's unauthorized disclosure, disclose to others or use, whether directly or indirectly, any Confidential Information regarding the Company or any of its subsidiaries or affiliates. "Confidential Information" shall mean information about the Company or any of its subsidiaries or affiliates, and their clients and customers that is not disclosed by the Company or any of its subsidiaries or affiliates for financial reporting purposes and that was learned by Employee in the course of employment by the Company or any of its subsidiaries or affiliates, including (without limitation) any proprietary knowledge, trade secrets, data, formulae, information and client and customer lists and all papers, resumes, and records (including computer records) of the documents containing such Confidential Information. Employee acknowledges that such Confidential Information is specialized, unique in nature and of great value to the Company and its subsidiaries or affiliates, and that such information gives the Company and its subsidiaries or affiliates a competitive advantage. Employee agrees to deliver or return to the Company, at the Company's request at any time or upon termination or expiration of Employee's employment or



as soon thereafter as possible, all documents, computer tapes and disks, records, lists, data, drawings, prints, notes and written information (and all copies thereof) furnished by the Company and its subsidiaries or affiliates or prepared by Employee in the course of Employee's employment by the Company and its subsidiaries or affiliates. As used in this Agreement, "subsidiaries" and "affiliates" shall mean any company controlled by, controlling or under common control with the Company.

(b) NON-COMPETITION. During Employee's employment with the Company and for twelve (12) months thereafter, Employee shall not, directly or indirectly, on behalf of Employee or on behalf of or with any other person, enterprise or entity, in any individual or representative capacity, engage or participate in any business, including its affiliated Internet entities, that is in competition with the Company or any subsidiary or affiliate of the Company in the United States of America in the field of television retailing, including, without limitation, QVC, Shop NBC (formerly called ValueVision) or Shop at Home, as well as any company which subsequently enters the field of television retailing as its primary business (collectively, the "Competing Companies"). Employee's obligations under this Section shall continue during the Term and for the period after the Term set forth above and shall not, for any reason, cease upon termination of Employee's employment with the Company. Notwithstanding anything else contained in this Section, Employee may own, for investment purposes only, up to five percent (5%) of the stock of any Competing Company if it is a publicly-held corporation whose stock is either listed on a national stock exchange or on the NASDAQ National Market System and if Employee is not otherwise affiliated with or participating in such corporation. As used herein, "participate" means lending one's name to, acting as consultant or advisor to, being employed by or acquiring any direct or indirect interest in any business or enterprise, whether as a stockholder, partner, officer, director, employee, consultant or otherwise. In the event that (1) the Company or any of its subsidiaries or affiliates places, or has placed for it, all or substantially all of its assets up for sale within one (1) year after termination of Employee's employment hereunder or (2) Employee's employment is terminated in connection with the disposition of all or substantially all of such assets (whether by sale of assets, equity or otherwise), Employee agrees to be bound by, and to execute such additional instruments as may be necessary or desirable to evidence Employee's agreement to be bound by, the terms and conditions of any non-competition provisions relating to the purchase and sale agreement for such assets, without any consideration beyond that expressed in this Agreement, provided that the purchase and sale agreement is negotiated in good faith with customary terms and provisions and the transaction contemplated thereby is consummated. Notwithstanding the foregoing, in no event shall Employee be bound by, or obligated to enter into, any non-competition provisions referred to in this Section 2(b) which extend beyond twelve (12) months, in each case from the date of termination of Employee's employment hereunder or whose scope extends the scope of the non-competition provisions set forth in this Section 2(b). The twelve (12) month time period referred to above shall be tolled on a day-for-day basis for each day during which Employee participates in any activity in violation of this Section 2(b) so that Employee is restricted from engaging in the conduct referred to in this Section 2(b) for a full twelve (12) months.

(c) NON-SOLICITATION OF EMPLOYEES. Employee recognizes that he will possess confidential information about other employees of the Company and its subsidiaries or

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affiliates relating to their education, experience, skills, abilities, compensation and benefits, and inter-personal relationships with suppliers to and customers of the Company and its subsidiaries or affiliates. Employee recognizes that the information he will possess about these other employees is not generally known, is of substantial value to the Company and its subsidiaries or affiliates in developing their respective businesses and in securing and retaining customers, and will be acquired by Employee because of Employee's business position with the Company. Employee agrees that, during the Term (and for a period of 24 months beyond the expiration of the Term), Employee will not, directly or indirectly, solicit or recruit any employee of the Company or any of its subsidiaries or affiliates for the purpose of being employed by Employee or by any business, individual, partnership, firm, corporation or other entity on whose behalf Employee is acting as an agent, representative or employee and that Employee will not convey any such confidential information or trade secrets about other employees of the Company or any of its subsidiaries or affiliates to any other person except within the scope of Employee's duties hereunder.

(d) PROPRIETARY RIGHTS; ASSIGNMENT. All Employee Developments shall be made for hire by the Employee for the Company or any of its subsidiaries or affiliates. "Employee Developments" means any idea, discovery, invention, design, method, technique, improvement, enhancement, development, computer program, machine, algorithm or other work or authorship that (i) relates to the business or operations of the Company or any of its subsidiaries or affiliates, or (ii) results from or is suggested by any undertaking assigned to the Employee or work performed by the Employee for or on behalf of the Company or any of its subsidiaries or affiliates, whether created alone or with others, during or after working hours. All Confidential Information and all Employee Developments shall remain the sole property of the Company or any of its subsidiaries or affiliates. The Employee shall acquire no proprietary interest in any Confidential Information or Employee Developments developed or acquired during the Term. To the extent the Employee may, by operation of law or otherwise, acquire any right, title or interest in or to any Confidential Information or Employee Development, the Employee hereby assigns to the Company all such proprietary rights. The Employee shall, both during and after the Term, upon the Company's request, promptly execute and deliver to the Company all such assignments, certificates and instruments, and shall promptly perform such other acts, as the Company may from time to time in its discretion deem necessary or desirable to evidence, establish, maintain, perfect, enforce or defend the Company's rights in Confidential Information and Employee Developments.

(e) COMPLIANCE WITH POLICIES AND PROCEDURES. During the Term, Employee shall adhere to the policies and standards of professionalism set forth in the Company's Policies and Procedures as they may exist from time to time.

(f) REMEDIES FOR BREACH. Employee expressly agrees and understands that Employee will notify the Company in writing of any alleged breach of this Agreement by the Company, and the Company will have 30 days from receipt of Employee's notice to cure any such breach.

Employee expressly agrees and understands that the remedy at law for any breach by Employee of this Section 2 will be inadequate and that damages flowing from such breach are

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not usually susceptible to being measured in monetary terms. Accordingly, it is acknowledged that upon Employee's violation of any provision of this Section 2 the Company shall be entitled to obtain from any court of competent jurisdiction immediate injunctive relief and obtain a temporary order restraining any threatened or further breach as well as an equitable accounting of all profits or benefits arising out of such violation. Nothing in this Section 2 shall be deemed to limit the Company's remedies at law or in equity for any breach by Employee of any of the provisions of this Section 2, which may be pursued by or available to the Company.

(g) SURVIVAL OF PROVISIONS. The obligations contained in this Section 2 shall, to the extent provided in this Section 2, survive the termination or expiration of Employee's employment with the Company and, as applicable, shall be fully enforceable thereafter in accordance with the terms of this Agreement. If it is determined by a court of competent jurisdiction in any state that any restriction in this Section 2 is excessive in duration or scope or is unreasonable or unenforceable under the laws of that state, it is the intention of the parties that such restriction may be modified or amended by the court to render it enforceable to the maximum extent permitted by the law of that state.

3. TERMINATION OF PRIOR AGREEMENTS. This Agreement constitutes the entire agreement between the parties and terminates and supersedes any and all prior agreements and understandings (whether written or oral) between the parties with respect to the subject matter of this Agreement. Employee acknowledges and agrees that neither the Company nor anyone acting on its behalf has made, and is not making, and in executing this Agreement, the Employee has not relied upon, any representations, promises or inducements except to the extent the same is expressly set forth in this Agreement. Employee hereby represents and warrants that by entering into this Agreement, Employee will not rescind or otherwise breach an employment agreement with Employee's current employer prior to the natural expiration date of such agreement

4. ASSIGNMENT; SUCCESSORS. This Agreement is personal in its nature and none of the parties hereto shall, without the consent of the others, assign or transfer this Agreement or any rights or obligations hereunder, provided that, in the event of the merger, consolidation, transfer, or sale of all or substantially all of the assets of the Company with or to any other individual or entity, this Agreement shall, subject to the provisions hereof, be binding upon and inure to the benefit of such successor and such successor shall discharge and perform all the promises, covenants, duties, and obligations of the Company hereunder, and all references herein to the "Company" shall refer to such successor.

5. WITHHOLDING. The Company shall make such deductions and withhold such amounts from each payment and benefit made or provided to Employee hereunder, as may be required from time to time by applicable law, governmental regulation or order.

6. HEADING REFERENCES. Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose. References to "this Agreement" or the use of the term "hereof" shall refer to these Standard Terms and Conditions and the Employment Agreement attached hereto, taken as a whole.

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7. WAIVER; MODIFICATION. Failure to insist upon strict compliance with any of the terms, covenants, or conditions hereof shall not be deemed a waiver of such term, covenant, or condition, nor shall any waiver or relinquishment of, or failure to insist upon strict compliance with, any right or power hereunder at any one or more times be deemed a waiver or relinquishment of such right or power at any other time or times. This Agreement shall not be modified in any respect except by a writing executed by each party hereto. Notwithstanding anything to the contrary herein, neither the assignment of Employee to a different Reporting Officer due to a reorganization or an internal restructuring of the Company or its affiliated companies nor a change in the title of the Reporting Officer shall constitute a modification or a breach of this Agreement.

8. SEVERABILITY. In the event that a court of competent jurisdiction determines that any portion of this Agreement is in violation of any law or public policy, only the portions of this Agreement that violate such law or public policy shall be stricken. All portions of this Agreement that do not violate any statute or public policy shall continue in full force and effect. Further, any court order striking any portion of this Agreement shall modify the stricken terms as narrowly as possible to give as much effect as possible to the intentions of the parties under this Agreement.

9. INDEMNIFICATION. The Company shall indemnify and hold Employee harmless for acts and omissions in Employee's capacity as an officer, director or employee of the Company to the maximum extent permitted under applicable law; provided, however, that neither the Company, nor any of its subsidiaries or affiliates shall indemnify Employee for any losses incurred by Employee as a result of acts described in Section 1(c) of this Agreement.

ACKNOWLEDGED AND AGREED:

Date: December 15, 2006

HSN GENERAL PARTNER LLC

By: /s/ Lisa Letizio  
Name: Lisa Letizio  
Title: EVP Human Resources

By: /s/ Judy A. Schmeling  
Name: Judy A. Schmeling

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EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT ("Agreement") is entered into by and between Jim Warner ("Employee") and HSN General Partner LLC, a Delaware limited liability company (the "Company"), and is effective March 13, 2007 (the "Effective Date").

WHEREAS, the Company desires to establish its right to the services of Employee, in the capacity described below, on the terms and conditions hereinafter set forth, and Employee is willing to accept such employment on such terms and conditions.

NOW, THEREFORE, in consideration of the mutual agreements hereinafter set forth, Employee and the Company have agreed and do hereby agree as follows:

1A. EMPLOYMENT. The Company agrees to employ Employee as EVP and General Counsel, and Employee accepts and agrees to such employment. During Employee's employment with the Company, Employee shall do and perform all services and acts necessary or advisable to fulfill the duties and responsibilities as are commensurate and consistent with Employee's position and shall render such services on the terms set forth herein. During Employee's employment with the Company, Employee shall report directly such person(s) as from time to time may be designated by the Company (hereinafter referred to as the "Reporting Officer"). Employee shall have such powers and duties with respect to the Company as may reasonably be assigned to Employee by the Reporting Officer, to the extent consistent with Employee's position and status. Employee agrees to devote all of Employee's working time, attention and efforts to the Company and to perform the duties of Employee's position in accordance with the Company's policies as in effect from time to time. Employee's principal place of employment shall be the Company's offices located in St. Petersburg, Florida.

2A. TERM OF AGREEMENT. The term ("Term") of this Agreement shall commence on the Effective Date and shall continue for two (2) years, unless sooner terminated in accordance with the provisions of Section 1 of the Standard Terms and Conditions attached hereto. During the period that is 90-120 days prior to the expiration of the Term, Employee shall have the right to request, by written notice to the Reporting Officer, with a copy to the General Counsel of IAC/InterActiveCorp, an extension of the Term. The Company shall have until the 60<sup>th</sup> day prior to the expiration of the Term to accept such request, and upon acceptance, the Agreement shall renew for one additional year, which additional year shall be added to and deemed part of the Term as defined in the first sentence of this Section 2A. Notwithstanding anything in this Section 2A to the contrary, nothing herein shall obligate either party to request an extension to the Term or agree to such an extension.

3A. COMPENSATION.

(a) BASE SALARY. During the Term of this Agreement, the Company shall pay Employee an annual base salary of \$315,000 (the "Base Salary"), payable in equal biweekly installments or in accordance with the Company's payroll practice as in effect from time to time. For all purposes under this Agreement, the term "Base Salary" shall refer to Base Salary as in effect from time to time.

(b) DISCRETIONARY BONUS. During the Term, Employee shall be eligible to receive discretionary annual bonuses.

(c) BENEFITS. From the Effective Date through the date of termination of Employee's employment with the Company for any reason, Employee shall be entitled to participate in any welfare, health and life insurance and pension benefit and incentive programs as may be adopted from time to time by the Company on the same basis as that provided to similarly situated employees of the Company. Without limiting the generality of the foregoing, Employee shall be entitled to the following benefits:

(i) Reimbursement for Business Expenses. During the Term, the Company shall reimburse Employee for all reasonable and necessary expenses incurred by Employee in performing Employee's duties for the Company, on the same basis as similarly situated employees and in accordance with the Company's policies as in effect from time to time.

(ii) Paid Time Off ("PTO"). During the Term, Employee shall be entitled to paid time off per year, in accordance with the plans, policies, programs and practices of the Company applicable to similarly situated employees of the Company generally.

4A. NOTICES. All notices and other communications under this Agreement shall be in writing and shall be given by first-class mail, certified or registered with return receipt requested or hand delivery acknowledged in writing by the recipient personally, and shall be deemed to have been duly given three days after mailing or immediately upon duly acknowledged hand delivery to the respective persons named below:

If to the Company:            HSN General Partner LLC  
    1 HSN Drive  
    St. Petersburg, FL 33729  
    Attention: General Counsel

If to Employee:                Jim Warner  
    69 Park Road  
    Teddington, Middlesex  
    TW11 OAU, United Kingdom

Either party may change such party's address for notices by notice duly given pursuant hereto.

5A. GOVERNING LAW; JURISDICTION. This Agreement and the legal relations thus created between the parties hereto shall be governed by and construed under and in accordance with the internal laws of the State of Florida without reference to the principles of conflicts of laws. Any and all disputes between the parties which may arise pursuant to this Agreement will be heard and determined before an appropriate federal court in Pinellas or Hillsborough Counties or, if not maintainable therein, then in an appropriate Florida state court. The parties acknowledge that such courts have jurisdiction to interpret and enforce the provisions of this Agreement, and the parties consent to, and waive any and all objections that they may have as to, personal jurisdiction and/or venue in such courts.

6A. COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same instrument. Employee expressly understands and acknowledges that the Standard Terms and Conditions attached hereto are incorporated herein by reference, deemed a part of this Agreement and are binding and enforceable provisions of this Agreement. References to "this Agreement" or the use of the term "hereof" shall refer to this Agreement and the Standard Terms and Conditions attached hereto, taken as a whole.

7A. SECTION 409A OF THE INTERNAL REVENUE CODE. This Agreement is not intended to constitute a "nonqualified deferred compensation plan" within the meaning of Section 409A of the Internal Revenue Code of 1986, as amended, and the rules and regulations issued thereunder ("Section 409A"). Notwithstanding the foregoing, if this Agreement or any benefit paid to Employee hereunder is subject to Section 409A and if Employee is a "Specified Employee" (as defined under Section 409A) as of the date of Employee's termination of employment hereunder, then the payment of benefits, if any, scheduled to be paid by the Company to Employee hereunder during the first six (6) month period beginning the date of a termination of employment hereunder shall be delayed during such six (6) month period and shall commence immediately following the end of such six (6) month period (and the period in which such payments were scheduled to be made if not for such delay shall be extended accordingly). In no event shall the Company be required to pay Employee any "gross-up" or other payment with respect to any taxes or penalties imposed under Section 409A with respect to any benefit paid to Employee hereunder.

[The Signature Page Follows]

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IN WITNESS WHEREOF, the Company has caused this Agreement to be executed and delivered by its duly authorized officer, and Employee has executed and delivered this Agreement on March 1, 2007

HSN GENERAL PARTNER LLC

By: /s/ Lisa Letizio  
Name: Lisa Letizio  
Title: EVP Human Resources

By: /s/ Jim Warner  
Name: Jim Warner

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STANDARD TERMS AND CONDITIONS

1. TERMINATION OF EMPLOYEE'S EMPLOYMENT.

(a) DEATH. In the event Employee's employment hereunder is terminated by reason of Employee's death, the Company shall pay Employee's designated beneficiary or beneficiaries, within 30 days of Employee's death in a lump sum in cash, Employee's Base Salary through the end of the month in which death occurs and any Accrued Obligations (as defined in paragraph 1(f) below).

(b) DISABILITY. If, as a result of Employee's incapacity due to physical or mental illness ("Disability"), Employee shall have been absent from the full-time performance of Employee's duties with the Company for a period of four consecutive months and, within 30 days after written notice is provided to Employee by the Company (in accordance with Section 6 hereof), Employee shall not have returned to the full-time performance of Employee's duties, Employee's employment under this Agreement may be terminated by the Company for Disability. During any period prior to such termination during which Employee is absent from the full-time performance of Employee's duties with the Company due to Disability, the Company shall continue to pay Employee's Base Salary at the rate in effect at the commencement of such period of Disability, offset by any amounts payable to Employee under any disability insurance plan or policy provided by the Company. Upon termination of Employee's employment due to Disability, the Company shall pay Employee within 30 days of such termination (i) Employee's Base Salary through the end of the month in which termination occurs in a lump sum in cash, offset by any amounts payable to Employee under any disability insurance plan or policy provided by the Company; and (ii) any Accrued Obligations (as defined in paragraph 1(f) below).

(c) TERMINATION FOR CAUSE. The Company may terminate Employee's employment under this Agreement for Cause at any time prior to the expiration of the Term. As used herein, "Cause" shall mean: (i) the plea of guilty or nolo contendere to, or conviction for, the commission of a felony offense by Employee; provided, however, that after indictment, the Company may suspend Employee from the rendition of services, but without limiting or modifying in any other way the Company's obligations under this Agreement; (ii) a material breach by Employee of a fiduciary duty owed to the Company; (iii) a material breach by Employee of any of the covenants made by Employee in Section 2 hereof; (iv) the willful or gross neglect by Employee of the material duties required by this Agreement; or (v) a material violation of any Company policy pertaining to ethics, wrongdoing or conflicts of interest that, in the case of the conduct described in clause (iii) or (iv) above, if curable, is not cured by Employee within ten (10) days after Employee is provided with written notice thereof. In the event of Employee's termination for Cause, this Agreement shall terminate without further obligation by the Company, except for the payment of any Accrued Obligations (as defined in paragraph 1(f) below).

(d) TERMINATION BY THE COMPANY OTHER THAN FOR DEATH, DISABILITY OR CAUSE If Employee's employment is terminated by the Company for any

reason other than Employee's death or Disability or for Cause, then (i) the Company shall pay Employee the Base Salary through the end of the Term over the course of the then remaining Term; and (ii) the Company shall pay Employee within 30 days of the date of such termination in a lump sum in cash any Accrued Obligations (as defined in paragraph 1(f) below). The payment to Employee of the severance benefits described in this Section 1(d) shall be subject to Employee's execution and non-revocation of a general release of the Company and its affiliates in a form substantially similar to that used for similarly situated executives of the Company and its affiliates.

(e) MITIGATION; OFFSET. In the event of termination of Employee's employment prior to the end of the Term, Employee shall use reasonable best efforts to seek other employment and to take other reasonable actions to mitigate the amounts payable under Section 1 hereof. If Employee obtains other employment during the Term, the amount of any payment or benefit provided for under Section 1 hereof which has been paid to Employee shall be refunded to the Company by Employee in an amount equal to any compensation earned by Employee as a result of employment with or services provided to another employer after the date of Employee's termination of employment and prior to the otherwise applicable expiration of the Term, and all future amounts payable by the Company to Employee during the remainder of the Term shall be offset by the amount earned by Employee from another employer. For purposes of this Section 1(e), Employee shall have an obligation to inform the Company regarding Employee's employment status following termination and during the period encompassing the Term.

(f) ACCRUED OBLIGATIONS. As used in this Agreement, "Accrued Obligations" shall mean the sum of (i) any portion of Employee's Base Salary through the date of death or termination of employment for any reason, as the case may be, which has not yet been paid; and (ii) any compensation previously earned but deferred by Employee (together with any interest or earnings thereon) that has not yet been paid.

2. CONFIDENTIAL INFORMATION; NON-SOLICITATION; AND PROPRIETARY RIGHTS.

(a) CONFIDENTIALITY. Employee acknowledges that while employed by the Company Employee will occupy a position of trust and confidence. Employee shall not, except as may be required to perform Employee's duties hereunder or as required by applicable law, without limitation in time or until such information shall have become public other than by Employee's unauthorized disclosure, disclose to others or use, whether directly or indirectly, any Confidential Information regarding the Company or any of its subsidiaries or affiliates. "Confidential Information" shall mean information about the Company or any of its subsidiaries or affiliates, and their clients and customers that is not disclosed by the Company or any of its subsidiaries or affiliates for financial reporting purposes and that was learned by Employee in the course of employment by the Company or any of its subsidiaries or affiliates, including (without limitation) any proprietary knowledge, trade secrets, data, formulae, information and client and customer lists and all papers, resumes, and records (including computer records) of the documents containing such Confidential Information. Employee acknowledges that such Confidential Information is specialized, unique in nature and of great value to the Company and its subsidiaries or affiliates, and that such information gives the Company and its subsidiaries or

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affiliates a competitive advantage. Employee agrees to deliver or return to the Company, at the Company's request at any time or upon termination or expiration of Employee's employment or as soon thereafter as possible, all documents, computer tapes and disks, records, lists, data, drawings, prints, notes and written information (and all copies thereof) furnished by the Company and its subsidiaries or affiliates or prepared by Employee in the course of Employee's employment by the Company and its subsidiaries or affiliates. As used in this Agreement, "subsidiaries" and "affiliates" shall mean any company controlled by, controlling or under common control with the Company.

(b) NON-COMPETITION. During Employee's employment with the Company and for twelve (12) months thereafter, Employee shall not, directly or indirectly, on behalf of Employee or on behalf of or with any other person, enterprise or entity, in any individual or representative capacity, engage or participate in any business, including its affiliated Internet entities, that is in competition with the Company or any subsidiary or affiliate of the Company in the United States of America in the field of television retailing, including, without limitation, QVC, Shop NBC (formerly called ValueVision) or Shop at Home, as well as any company which subsequently enters the field of television retailing as its primary business (collectively, the "Competing Companies"). Employee's obligations under this Section shall continue during the Term and for the period after the Term set forth above and shall not, for any reason, cease upon termination of Employee's employment with the Company. Notwithstanding anything else contained in this Section, Employee may own, for investment purposes only, up to five percent (5%) of the stock of any Competing Company if it is a publicly-held corporation whose stock is either listed on a national stock exchange or on the NASDAQ National Market System and if Employee is not otherwise affiliated with or participating in such corporation. As used herein, "participate" means lending one's name to, acting as consultant or advisor to, being employed by or acquiring any direct or indirect interest in any business or enterprise, whether as a stockholder, partner, officer, director, employee, consultant or otherwise. In the event that (1) the Company or any of its subsidiaries or affiliates places, or has placed for it, all or substantially all of its assets up for sale within one (1) year after termination of Employee's employment hereunder or (2) Employee's employment is terminated in connection with the disposition of all or substantially all of such assets (whether by sale of assets, equity or otherwise), Employee agrees to be bound by, and to execute such additional instruments as may be necessary or desirable to evidence Employee's agreement to be bound by, the terms and conditions of any non-competition provisions relating to the purchase and sale agreement for such assets, without any consideration beyond that expressed in this Agreement, provided that the purchase and sale agreement is negotiated in good faith with customary terms and provisions and the transaction contemplated thereby is consummated. Notwithstanding the foregoing, in no event shall Employee be bound by, or obligated to enter into, any non-competition provisions referred to in this Section 2(b) which extend beyond twelve (12) months, in each case from the date of termination of Employee's employment hereunder or whose scope extends the scope of the non-competition provisions set forth in this Section 2(b). The twelve (12) month time period referred to above shall be tolled on a day-for-day basis for each day during which Employee participates in any activity in violation of this Section 2(b) so that Employee is restricted from engaging in the conduct referred to in this Section 2(b) for a full twelve (12) months.

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(c) NON-SOLICITATION OF EMPLOYEES. Employee recognizes that he will possess confidential information about other employees of the Company and its subsidiaries or affiliates relating to their education, experience, skills, abilities, compensation and benefits, and inter-personal relationships with suppliers to and customers of the Company and its subsidiaries or affiliates. Employee recognizes that the information he will possess about these other employees is not generally known, is of substantial value to the Company and its subsidiaries or affiliates in developing their respective businesses and in securing and retaining customers, and will be acquired by Employee because of Employee's business position with the Company. Employee agrees that, during the Term (and for a period of 12 months beyond the expiration of the Term), Employee will not, directly or indirectly, solicit or recruit any employee of the Company or any of its subsidiaries or affiliates for the purpose of being employed by Employee or by any business, individual, partnership, firm, corporation or other entity on whose behalf Employee is acting as an agent, representative or employee and that Employee will not convey any such confidential information or trade secrets about other employees of the Company or any of its subsidiaries or affiliates to any other person except within the scope of Employee's duties hereunder. Notwithstanding the foregoing, Employee is not precluded from soliciting any individual who (i) responds to any public advertisement or general solicitation or (ii) has been terminated by the Company or any of its subsidiaries or affiliates prior to the solicitation.

(d) PROPRIETARY RIGHTS; ASSIGNMENT. All Employee Developments shall be made for hire by the Employee for the Company or any of its subsidiaries or affiliates. "Employee Developments" means any idea, discovery, invention, design, method, technique, improvement, enhancement, development, computer program, machine, algorithm or other work or authorship that (i) relates to the business or operations of the Company or any of its subsidiaries or affiliates, or (ii) results from or is suggested by any undertaking assigned to the Employee or work performed by the Employee for or on behalf of the Company or any of its subsidiaries or affiliates, whether created alone or with others, during or after working hours. All Confidential Information and all Employee Developments shall remain the sole property of the Company or any of its subsidiaries or affiliates. The Employee shall acquire no proprietary interest in any Confidential Information or Employee Developments developed or acquired during the Term. To the extent the Employee may, by operation of law or otherwise, acquire any right, title or interest in or to any Confidential Information or Employee Development, the Employee hereby assigns to the Company all such proprietary rights. The Employee shall, both during and after the Term, upon the Company's request, promptly execute and deliver to the Company all such assignments, certificates and instruments, and shall promptly perform such other acts, as the Company may from time to time in its discretion deem necessary or desirable to evidence, establish, maintain, perfect, enforce or defend the Company's rights in Confidential Information and Employee Developments.

(e) COMPLIANCE WITH POLICIES AND PROCEDURES. During the Term, Employee shall adhere to the policies and standards of professionalism set forth in the Company's Policies and Procedures as they may exist from time to time.

(f) REMEDIES FOR BREACH. Employee expressly agrees and understands that Employee will notify the Company in writing of any alleged breach of this Agreement by the

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Company, and the Company will have 30 days from receipt of Employee's notice to cure any such breach.

Employee expressly agrees and understands that the remedy at law for any breach by Employee of this Section 2 may be inadequate and that damages

flowing from such breach may not be susceptible to being measured in monetary terms. Accordingly, it is acknowledged that upon Employee's violation of any provision of this Section 2 the Company may be entitled to obtain from any court of competent jurisdiction immediate injunctive relief and obtain a temporary order restraining any threatened or further breach as well as an equitable accounting of all profits or benefits arising out of such violation. Nothing in this Section 2 shall be deemed to limit the Company's remedies at law or in equity for any breach by Employee of any of the provisions of this Section 2, which may be pursued by or available to the Company.

(g) **SURVIVAL OF PROVISIONS.** The obligations contained in this Section 2 shall, to the extent provided in this Section 2, survive the termination or expiration of Employee's employment with the Company and, as applicable, shall be fully enforceable thereafter in accordance with the terms of this Agreement. If it is determined by a court of competent jurisdiction in any state that any restriction in this Section 2 is excessive in duration or scope or is unreasonable or unenforceable under the laws of that state, it is the intention of the parties that such restriction may be modified or amended by the court to render it enforceable to the maximum extent permitted by the law of that state.

3. **TERMINATION OF PRIOR AGREEMENTS.** This Agreement constitutes the entire agreement between the parties and terminates and supersedes any and all prior agreements and understandings (whether written or oral) between the parties with respect to the subject matter of this Agreement. Employee acknowledges and agrees that neither the Company nor anyone acting on its behalf has made, and is not making, and in executing this Agreement, the Employee has not relied upon, any representations, promises or inducements except to the extent the same is expressly set forth in this Agreement. Employee hereby represents and warrants that by entering into this Agreement, Employee will not rescind or otherwise breach an employment agreement with Employee's current employer prior to the natural expiration date of such agreement

4. **ASSIGNMENT; SUCCESSORS.** This Agreement is personal in its nature and none of the parties hereto shall, without the consent of the others, assign or transfer this Agreement or any rights or obligations hereunder, provided that, in the event of the merger, consolidation, transfer, or sale of all or substantially all of the assets of the Company with or to any other individual or entity, this Agreement shall, subject to the provisions hereof, be binding upon and inure to the benefit of such successor and such successor shall discharge and perform all the promises, covenants, duties, and obligations of the Company hereunder, and all references herein to the "Company" shall refer to such successor.

5. **WITHHOLDING.** The Company shall make such deductions and withhold such amounts from each payment and benefit made or provided to Employee hereunder, as may be required from time to time by applicable law, governmental regulation or order.

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6. **HEADING REFERENCES.** Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose. References to "this Agreement" or the use of the term "hereof" shall refer to these Standard Terms and Conditions and the Employment Agreement attached hereto, taken as a whole.

7. **WAIVER; MODIFICATION.** Failure to insist upon strict compliance with any of the terms, covenants, or conditions hereof shall not be deemed a waiver of such term, covenant, or condition, nor shall any waiver or relinquishment of, or failure to insist upon strict compliance with, any right or power hereunder at any one or more times be deemed a waiver or relinquishment of such right or power at any other time or times. This Agreement shall not be modified in any respect except by a writing executed by each party hereto. Notwithstanding anything to the contrary herein, neither the assignment of Employee to a different Reporting Officer due to a reorganization or an internal restructuring of the Company or its affiliated companies nor a change in the title of the Reporting Officer shall constitute a modification or a breach of this Agreement.

8. **SEVERABILITY.** In the event that a court of competent jurisdiction determines that any portion of this Agreement is in violation of any law or public policy, only the portions of this Agreement that violate such law or public policy shall be stricken. All portions of this Agreement that do not violate any statute or public policy shall continue in full force and effect. Further, any court order striking any portion of this Agreement shall modify the stricken terms as narrowly as possible to give as much effect as possible to the intentions of the parties under this Agreement.

9. **INDEMNIFICATION.** The Company shall indemnify and hold Employee harmless for acts and omissions in Employee's capacity as an officer, director or employee of the Company to the maximum extent permitted under applicable law; provided, however, that neither the Company, nor any of its subsidiaries or affiliates shall indemnify Employee for any losses incurred by Employee as a result of acts described in Section 1(c) of this Agreement.

ACKNOWLEDGED AND AGREED:

Date: March 1, 2007

HSN GENERAL PARTNER LLC

By: /s/ Lisa Letizio  
Name: Lisa Letizio  
Title: EVP Human Resources

By: /s/ Jim Warner  
Name: Jim Warner

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**HSNi, INC.**  
**2008 STOCK AND ANNUAL INCENTIVE PLAN**

**SECTION 1. Purpose; Definition**

The purpose of this Plan is (a) to give the Company a competitive advantage in attracting, retaining and motivating officers, employees, directors and/or consultants and to provide the Company and its Subsidiaries and Affiliates with a stock and incentive plan providing incentives directly linked to stockholder value and (b) to assume and govern other awards pursuant to the adjustment of awards granted under any IAC Long Term Incentive Plan (as defined in the Employee Matters Agreement) in accordance with the terms of the Employee Matters Agreement (“*Adjusted Awards*”). Certain terms used herein have definitions given to them in the first place in which they are used. In addition, for purposes of this Plan, the following terms are defined as set forth below:

- (a) “*Affiliate*” means a corporation or other entity controlled by, controlling or under common control with, the Company.
- (b) “*Applicable Exchange*” means Nasdaq or such other securities exchange as may at the applicable time be the principal market for the Common Stock.
- (c) “*Award*” means an Option, Stock Appreciation Right, Restricted Stock, Restricted Stock Unit, or other stock-based award granted or assumed pursuant to the terms of this Plan, including Adjusted Awards.
- (d) “*Award Agreement*” means a written or electronic document or agreement setting forth the terms and conditions of a specific Award.
- (e) “*Beneficial Ownership*” shall have the meaning given in Rule 13d-3 promulgated under the Exchange Act.
- (f) “*Board*” means the Board of Directors of the Company.
- (g) “*Bonus Award*” means a bonus award made pursuant to Section 9.
- (h) “*Cause*” means, unless otherwise provided in an Award Agreement, (i) “*Cause*” as defined in any Individual Agreement to which the applicable Participant is a party, or (ii) if there is no such Individual Agreement or if it does not define Cause: (A) the willful or gross neglect by a Participant of his employment duties; (B) the plea of guilty or *nolo contendere* to, or conviction for, the commission of a felony offense by a Participant; (C) a material breach by a Participant of a fiduciary duty owed to the Company or any of its subsidiaries; (D) a material breach by a Participant of any nondisclosure, non-solicitation or non-competition obligation owed to the Company or any of its Affiliates; or (E) before a Change in Control, such other events as shall be determined by the Committee and set forth in a Participant’s Award Agreement. Notwithstanding the general rule of Section 2(c), following a Change in Control, any determination by the Committee as to whether “*Cause*” exists shall be subject to *de novo* review.

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- (i) “*Change in Control*” has the meaning set forth in Section 10(c).
- (j) “*Code*” means the Internal Revenue Code of 1986, as amended from time to time, and any successor thereto, the Treasury Regulations thereunder and other relevant interpretive guidance issued by the Internal Revenue Service or the Treasury Department. Reference to any specific section of the Code shall be deemed to include such regulations and guidance, as well as any successor provision of the Code.
- (k) “*Commission*” means the Securities and Exchange Commission or any successor agency.
- (l) “*Committee*” has the meaning set forth in Section 2(a).
- (m) “*Common Stock*” means common stock, par value \$0.01 per share, of the Company.
- (n) “*Company*” means HSNi, Inc., a Delaware corporation, or its successor.
- (o) “*Disability*” means (i) “*Disability*” as defined in any Individual Agreement to which the Participant is a party, or (ii) if there is no such Individual Agreement or it does not define “*Disability*,” (A) permanent and total disability as determined under the Company’s long-term disability plan applicable to the Participant, or (B) if there is no such plan applicable to the Participant or the Committee determines otherwise in an applicable Award Agreement, “*Disability*” as determined by the Committee. Notwithstanding the above, with respect to an Incentive Stock Option, Disability shall mean Permanent and Total Disability as defined in Section 22(e)(3) of the Code and, with respect to all Awards, to the extent required by Section 409A of the Code, “*disability*” within the meaning of Section 409A of the Code.
- (p) “*Disaffiliation*” means a Subsidiary’s or Affiliate’s ceasing to be a Subsidiary or Affiliate for any reason (including, without limitation, as a result of a public offering, or a spinoff or sale by the Company, of the stock of the Subsidiary or Affiliate) or a sale of a division of the Company and its Affiliates.
- (q) “*EBITA*” means for any period, operating profit (loss) plus (i) amortization, including goodwill impairment, (ii) amortization of non-cash distribution and marketing expense and non-cash compensation expense, (iii) restructuring charges, (iv) non-cash write-downs of assets or goodwill, (v) charges relating to disposal of lines of business, (vi) litigation settlement amounts and (vii) costs incurred for proposed and completed acquisitions.
- (r) “*EBITDA*” means for any period, operating profit (loss) plus (i) depreciation and amortization, including goodwill impairment, (ii) amortization of non-cash distribution and marketing expense and non-cash compensation expense, (iii) restructuring charges, (iv) non-cash write-downs of assets or goodwill, (v) charges relating to disposal of lines of business, (vi) litigation settlement amounts and (vii) costs incurred for proposed and completed acquisitions.
- (s) “*Eligible Individuals*” means directors, officers, employees and consultants of the Company or any of its Subsidiaries or Affiliates, and prospective employees and consultants who have accepted offers of employment or consultancy from the Company or its Subsidiaries or Affiliates.

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- (t) “*Employee Matters Agreement*” means the Employee Matters Agreement by and among IAC, Ticketmaster, Interval Leisure Group, Inc., HSN, Inc. and Tree.com, Inc.
- (u) “*Exchange Act*” means the Securities Exchange Act of 1934, as amended from time to time, and any successor thereto.

(v) “*Fair Market Value*” means, unless otherwise determined by the Committee, the closing price of a share of Common Stock on the Applicable Exchange on the date of measurement, or if Shares were not traded on the Applicable Exchange on such measurement date, then on the next preceding date on which Shares were traded, all as reported by such source as the Committee may select. If the Common Stock is not listed on a national securities exchange, Fair Market Value shall be determined by the Committee in its good faith discretion, taking into account, to the extent appropriate, the requirements of Section 409A of the Code.

(w) “*Free-Standing SAR*” has the meaning set forth in Section 5(b).

(x) “*Grant Date*” means (i) the date on which the Committee by resolution selects an Eligible Individual to receive a grant of an Award and determines the number of Shares to be subject to such Award or the formula for earning a number of shares or cash amount, (ii) such later date as the Committee shall provide in such resolution or (iii) the initial date on which an Adjusted Award was granted under the IAC Long Term Incentive Plan.

(y) “*Group*” shall have the meaning given in Section 13(d)(3) and 14(d)(2) of the Exchange Act.

(z) “*IAC*” means IAC/InterActiveCorp, a Delaware corporation.

(aa) “*Incentive Stock Option*” means any Option that is designated in the applicable Award Agreement as an “incentive stock option” within the meaning of Section 422 of the Code, and that in fact so qualifies.

(bb) “*Individual Agreement*” means an employment, consulting or similar agreement between a Participant and the Company or one of its Subsidiaries or Affiliates.

(cc) “*Nasdaq*” means the National Association of Securities Dealers Inc. Automated Quotation System.

(dd) “*Nonqualified Option*” means any Option that is not an Incentive Stock Option.

(ee) “*Option*” means an Award granted under Section 5.

(ff) “*Participant*” means an Eligible Individual to whom an Award is or has been granted.

(gg) “*Performance Goals*” means the performance goals established by the Committee in connection with the grant of Restricted Stock, Restricted Stock Units or Bonus Awards or other stock-based awards. In the case of Qualified-Performance Based Awards, (i) such goals shall be based on the attainment of one or any combination of the following: specified levels of

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earnings per share from continuing operations, net profit after tax, EBITDA, EBITA, gross profit, cash generation, unit volume, market share, sales, asset quality, earnings per share, operating income, revenues, return on assets, return on operating assets, return on equity, profits, total stockholder return (measured in terms of stock price appreciation and/or dividend growth), cost saving levels, marketing-spending efficiency, core non-interest income, change in working capital, return on capital, and/or stock price, with respect to the Company or any Subsidiary, Affiliate, division or department of the Company and (ii) such Performance Goals shall be set by the Committee within the time period prescribed by Section 162(m) of the Code and related regulations. Such Performance Goals also may be based upon the attaining of specified levels of Company, Subsidiary, Affiliate or divisional performance under one or more of the measures described above relative to the performance of other entities, divisions or subsidiaries.

(hh) “*Plan*” means this HSNi, Inc. 2008 Stock and Annual Incentive Plan, as set forth herein and as hereafter amended from time to time.

(ii) “*Plan Year*” means the calendar year or, with respect to Bonus Awards, the Company’s fiscal year if different.

(jj) “*Qualified Performance-Based Award*” means an Award intended to qualify for the Section 162(m) Exemption, as provided in Section 11.

(kk) “*Restricted Stock*” means an Award granted under Section 6.

(ll) “*Restricted Stock Units*” means an Award granted under Section 7.

(mm) “*Resulting Voting Power*” shall mean the outstanding combined voting power of the then outstanding voting securities entitled to vote generally in the election of directors (or equivalent governing body, if applicable) of the entity resulting from a Business Combination (including, without limitation, an entity which as a result of such transaction owns the Company or all or substantially all of the Company’s assets either directly or through one or more subsidiaries).

(nn) “*Retirement*” means retirement from active employment with the Company, a Subsidiary or Affiliate at or after the Participant’s attainment of age 65.

(oo) “*Section 162(m) Exemption*” means the exemption from the limitation on deductibility imposed by Section 162(m) of the Code that is set forth in Section 162(m)(4)(C) of the Code.

(pp) “*Separation*” has the meaning set forth in the Employee Matters Agreement.

(qq) “*Share*” means a share of Common Stock.

(rr) “*Stock Appreciation Right*” has the meaning set forth in Section 5(b).

(ss) “*Subsidiary*” means any corporation, partnership, joint venture, limited liability company or other entity during any period in which at least a 50% voting or profits interest is owned, directly or indirectly, by the Company or any successor to the Company.

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(tt) “*Tandem SAR*” has the meaning set forth in Section 5(b).

(uu) “*Term*” means the maximum period during which an Option or Stock Appreciation Right may remain outstanding, subject to earlier termination upon Termination of Employment or otherwise, as specified in the applicable Award Agreement.

(vv) “*Termination of Employment*” means the termination of the applicable Participant’s employment with, or performance of services for, the Company and any of its Subsidiaries or Affiliates. Unless otherwise determined by the Committee, if a Participant’s employment with, or membership on a board of directors of the Company and its Affiliates terminates but such Participant continues to provide services to the Company and its Affiliates in a non-employee director capacity or as an employee, as



applicable, such change in status shall not be deemed a Termination of Employment. A Participant employed by, or performing services for, a Subsidiary or an Affiliate or a division of the Company and its Affiliates shall be deemed to incur a Termination of Employment if, as a result of a Disaffiliation, such Subsidiary, Affiliate, or division ceases to be a Subsidiary, Affiliate or division, as the case may be, and the Participant does not immediately thereafter become an employee of (or service provider for), or member of the board of directors of, the Company or another Subsidiary or Affiliate. Temporary absences from employment because of illness, vacation or leave of absence and transfers among the Company and its Subsidiaries and Affiliates shall not be considered Terminations of Employment. Notwithstanding the foregoing, with respect to any Award that constitutes "nonqualified deferred compensation" within the meaning of Section 409A of the Code, "Termination of Employment" shall mean a "separation from service" as defined under Section 409A of the Code. For the avoidance of doubt, the Separation shall not constitute a Termination of Employment for purposes of any Adjusted Award.

## SECTION 2. Administration

(a) *Committee.* The Plan shall be administered by the Compensation Committee of the Board or such other committee of the Board as the Board may from time to time designate (the "Committee"), which shall be composed of not less than two directors, and shall be appointed by and serve at the pleasure of the Board. The Committee shall, subject to Section 11, have plenary authority to grant Awards pursuant to the terms of the Plan to Eligible Individuals. Among other things, the Committee shall have the authority, subject to the terms and conditions of the Plan and the Employee Matters Agreement (including the original terms of the grant of the Adjusted Award):

(i) to select the Eligible Individuals to whom Awards may from time to time be granted;

(ii) to determine whether and to what extent Incentive Stock Options, Nonqualified Options, Stock Appreciation Rights, Restricted Stock, Restricted Stock Units, other stock-based awards, or any combination thereof, are to be granted hereunder;

(iii) to determine the number of Shares to be covered by each Award granted hereunder;

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(iv) to determine the terms and conditions of each Award granted hereunder, based on such factors as the Committee shall determine;

(v) subject to Section 12, to modify, amend or adjust the terms and conditions of any Award;

(vi) to adopt, alter and repeal such administrative rules, guidelines and practices governing the Plan as it shall from time to time deem advisable;

(vii) subject to Section 11, to accelerate the vesting or lapse of restrictions of any outstanding Award, based in each case on such considerations as the Committee in its sole discretion determines;

(viii) to interpret the terms and provisions of the Plan and any Award issued under the Plan (and any agreement relating thereto);

(ix) to establish any "blackout" period that the Committee in its sole discretion deems necessary or advisable;

(x) to determine whether, to what extent, and under what circumstances cash, Shares, and other property and other amounts payable with respect to an Award under this Plan shall be deferred either automatically or at the election of the Participant;

(xi) to decide all other matters that must be determined in connection with an Award; and

(xii) to otherwise administer the Plan.

(b) *Procedures.*

(i) The Committee may act only by a majority of its members then in office, except that the Committee may, except to the extent prohibited by applicable law or the listing standards of the Applicable Exchange and subject to Section 11, allocate all or any portion of its responsibilities and powers to any one or more of its members and may delegate all or any part of its responsibilities and powers to any person or persons selected by it.

(ii) Subject to Section 11(c), any authority granted to the Committee may also be exercised by the full Board. To the extent that any permitted action taken by the Board conflicts with action taken by the Committee, the Board action shall control.

(c) *Discretion of Committee.* Subject to Section 1(h), any determination made by the Committee or by an appropriately delegated officer pursuant to delegated authority under the provisions of the Plan with respect to any Award shall be made in the sole discretion of the Committee or such delegate at the time of the grant of the Award or, unless in contravention of any express term of the Plan, at any time thereafter. All decisions made by the Committee or any appropriately delegated officer pursuant to the provisions of the Plan shall be final and binding on all persons, including the Company, Participants, and Eligible Individuals.

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(d) *Award Agreements.* The terms and conditions of each Award, as determined by the Committee, shall be set forth in an Award Agreement, which shall be delivered to the Participant receiving such Award upon, or as promptly as is reasonably practicable following, the grant of such Award. The effectiveness of an Award shall not be subject to the Award Agreement's being signed by the Company and/or the Participant receiving the Award unless specifically so provided in the Award Agreement. Award Agreements may be amended only in accordance with Section 12 hereof.

## SECTION 3. Common Stock Subject to Plan

(a) *Plan Maximums.* The maximum number of Shares that may be delivered pursuant to Awards under the Plan shall be the sum of (a) the number of Shares that may be issuable upon exercise or vesting of the Adjusted Awards and (b) 5,000,000. The maximum number of Shares that may be granted pursuant to Options intended to be Incentive Stock Options shall be 3,333,333 Shares. Shares subject to an Award under the Plan may be authorized and unissued Shares or may be treasury Shares.

(b) *Individual Limits.* No Participant may be granted Awards covering in excess of 1,466,666 Shares during the term of the Plan *provided* that Adjusted Awards shall not be subject to this limitation.

(c) *Rules for Calculating Shares Delivered*

(i) With respect to Awards other than Adjusted Awards, to the extent that any Award is forfeited, or any Option and the related Tandem SAR (if any) or Free-Standing SAR terminates, expires or lapses without being exercised, or any Award is settled for cash, the Shares subject to such Awards not delivered as a result thereof shall again be available for Awards under the Plan.

(ii) With respect to Awards other than Adjusted Awards, if the exercise price of any Option and/or the tax withholding obligations relating to any Award are satisfied by delivering Shares to the Company (by either actual delivery or by attestation), only the number of Shares issued net of the Shares delivered or attested to shall be deemed delivered for purposes of the limits set forth in Section 3(a). To the extent any Shares subject to an Award are withheld to satisfy the exercise price (in the case of an Option) and/or the tax withholding obligations relating to such Award, such Shares shall not be deemed to have been delivered for purposes of the limits set forth in Section 3(a).

(d) *Adjustment Provision.* In the event of a merger, consolidation, acquisition of property or shares, stock rights offering, liquidation, Disaffiliation, or similar event affecting the Company or any of its Subsidiaries (each, a “Corporate Transaction”), the Committee or the Board may in its discretion make such substitutions or adjustments as it deems appropriate and equitable to (i) the aggregate number and kind of Shares or other securities reserved for issuance and delivery under the Plan, (ii) the various maximum limitations set forth in Sections 3(a) and 3(b) upon certain types of Awards and upon the grants to individuals of certain types of Awards, (iii) the number and kind of Shares or other securities subject to outstanding Awards; and (iv) the exercise price of outstanding Options and Stock Appreciation Rights. In the event of a stock

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dividend, stock split, reverse stock split, separation, spinoff, reorganization, extraordinary dividend of cash or other property, share combination, or recapitalization or similar event affecting the capital structure of the Company (each, a “Share Change”), the Committee or the Board shall make such substitutions or adjustments as it deems appropriate and equitable to (i) the aggregate number and kind of Shares or other securities reserved for issuance and delivery under the Plan, (ii) the various maximum limitations set forth in Sections 3(a) and 3(b) upon certain types of Awards and upon the grants to individuals of certain types of Awards, (iii) the number and kind of Shares or other securities subject to outstanding Awards; and (iv) the exercise price of outstanding Options and Stock Appreciation Rights. In the case of Corporate Transactions, such adjustments may include, without limitation, (1) the cancellation of outstanding Awards in exchange for payments of cash, property or a combination thereof having an aggregate value equal to the value of such Awards, as determined by the Committee or the Board in its sole discretion (it being understood that in the case of a Corporate Transaction with respect to which stockholders of Common Stock receive consideration other than publicly traded equity securities of the ultimate surviving entity, any such determination by the Committee that the value of an Option or Stock Appreciation Right shall for this purpose be deemed to equal the excess, if any, of the value of the consideration being paid for each Share pursuant to such Corporate Transaction over the exercise price of such Option or Stock Appreciation Right shall conclusively be deemed valid); (2) the substitution of other property (including, without limitation, cash or other securities of the Company and securities of entities other than the Company) for the Shares subject to outstanding Awards; and (3) in connection with any Disaffiliation, arranging for the assumption of Awards, or replacement of Awards with new awards based on other property or other securities (including, without limitation, other securities of the Company and securities of entities other than the Company), by the affected Subsidiary, Affiliate, or division or by the entity that controls such Subsidiary, Affiliate, or division following such Disaffiliation (as well as any corresponding adjustments to Awards that remain based upon Company securities). The Committee may adjust in its sole discretion the Performance Goals applicable to any Awards to reflect any Share Change and any Corporate Transaction and any unusual or non-recurring events and other extraordinary items, impact of charges for restructurings, discontinued operations, and the cumulative effects of accounting or tax changes, each as defined by generally accepted accounting principles or as identified in the Company’s financial statements, notes to the financial statements, management’s discussion and analysis or the Company’s other SEC filings, *provided* that in the case of Performance Goals applicable to any Qualified Performance-Based Awards, such adjustment does not violate Section 162(m) of the Code. Any adjustment under this Section 3(d) need not be the same for all Participants.

(e) *Section 409A.* Notwithstanding the foregoing: (i) any adjustments made pursuant to Section 3(d) to Awards that are considered “deferred compensation” within the meaning of Section 409A of the Code shall be made in compliance with the requirements of Section 409A of the Code; (ii) any adjustments made pursuant to Section 3(d) to Awards that are not considered “deferred compensation” subject to Section 409A of the Code shall be made in such a manner as to ensure that after such adjustment, the Awards either (A) continue not to be subject to Section 409A of the Code or (B) comply with the requirements of Section 409A of the Code; and (iii) in any event, neither the Committee nor the Board shall have the authority to make any adjustments pursuant to Section 3(d) to the extent the existence of such authority would cause an Award that

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is not intended to be subject to Section 409A of the Code at the Grant Date to be subject thereto as of the Grant Date.

#### **SECTION 4. Eligibility**

Awards may be granted under the Plan to Eligible Individuals and, with respect to Adjusted Awards, in accordance with the terms of the Employee Matters Agreement; *provided, however*, that Incentive Stock Options may be granted only to employees of the Company and its subsidiaries or parent corporation (within the meaning of Section 424(f) of the Code) and, with respect to Adjusted Awards that are intended to qualify as incentive stock options within the meaning of Section 421 of the Code, in accordance with the terms of the Employee Matters Agreement.

#### **SECTION 5. Options and Stock Appreciation Rights**

With respect to Adjusted Awards, the provisions below will be applicable only to the extent that they are not inconsistent with the Employee Matters Agreement and the terms of the Adjusted Award assumed under the Employee Matters Agreement:

(a) *Types of Options.* Options may be of two types: Incentive Stock Options and Nonqualified Options. The Award Agreement for an Option shall indicate whether the Option is intended to be an Incentive Stock Option or a Nonqualified Option.

(b) *Types and Nature of Stock Appreciation Rights.* Stock Appreciation Rights may be “Tandem SARs,” which are granted in conjunction with an Option, or “Free-Standing SARs,” which are not granted in conjunction with an Option. Upon the exercise of a Stock Appreciation Right, the Participant shall be entitled to receive an amount in cash, Shares, or both, in value equal to the product of (i) the excess of the Fair Market Value of one Share over the exercise price of the applicable Stock Appreciation Right, multiplied by (ii) the number of Shares in respect of which the Stock Appreciation Right has been exercised. The applicable Award Agreement shall specify whether such payment is to be made in cash or Common Stock or both, or shall reserve to the Committee or the Participant the right to make that determination prior to or upon the exercise of the Stock Appreciation Right.

(c) *Tandem SARs.* A Tandem SAR may be granted at the Grant Date of the related Option. A Tandem SAR shall be exercisable only at such time or times and to the extent that the related Option is exercisable in accordance with the provisions of this Section 5, and shall have the same exercise price as the related Option. A Tandem SAR shall terminate or be forfeited upon the exercise or forfeiture of the related Option, and the related Option shall terminate or be forfeited upon the exercise or forfeiture of the Tandem SAR.

(d) *Exercise Price.* The exercise price per Share subject to an Option or Free-Standing SAR shall be determined by the Committee and set forth in the applicable Award Agreement, and shall not be less than the Fair Market Value of a share of the Common Stock on the applicable Grant Date. In no event may any Option or Free-Standing SAR granted under this Plan be amended, other than pursuant to Section 3(d), to decrease the exercise price thereof, be cancelled in conjunction with the grant of any new Option or Free-Standing SAR with a lower exercise price or otherwise be subject to any action that would be treated, for accounting

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purposes, as a “repricing” of such Option or Free-Standing SAR, unless such amendment, cancellation, or action is approved by the Company’s stockholders.

(e) *Term.* The Term of each Option and each Free-Standing SAR shall be fixed by the Committee, but shall not exceed ten years from the Grant Date.

(f) *Vesting and Exercisability.* Except as otherwise provided herein, Options and Free-Standing SARs shall be exercisable at such time or times and subject to such terms and conditions as shall be determined by the Committee. If the Committee provides that any Option or Free-Standing SAR will become exercisable only in installments, the Committee may at any time waive such installment exercise provisions, in whole or in part, based on such factors as the Committee may determine. In addition, the Committee may at any time accelerate the exercisability of any Option or Free-Standing SAR.

(g) *Method of Exercise.* Subject to the provisions of this Section 5, Options and Free-Standing SARs may be exercised, in whole or in part, at any time during the applicable Term by giving written notice of exercise to the Company or through the procedures established with the Company’s appointed third-party Option administrator specifying the number of Shares as to which the Option or Free-Standing SAR is being exercised; *provided, however,* that, unless otherwise permitted by the Committee, any such exercise must be with respect to a portion of the applicable Option or Free-Standing SAR relating to no less than the lesser of the number of Shares then subject to such Option or Free-Standing SAR or 100 Shares. In the case of the exercise of an Option, such notice shall be accompanied by payment in full of the purchase price (which shall equal the product of such number of Shares multiplied by the applicable exercise price) by certified or bank check or such other instrument as the Company may accept. If approved by the Committee, payment, in full or in part, may also be made as follows:

(i) Payments may be made in the form of unrestricted Shares (by delivery of such Shares or by attestation) of the same class as the Common Stock subject to the Option already owned by the Participant (based on the Fair Market Value of the Common Stock on the date the Option is exercised); *provided, however,* that, in the case of an Incentive Stock Option, the right to make a payment in the form of already owned Shares of the same class as the Common Stock subject to the Option may be authorized only at the time the Option is granted.

(ii) To the extent permitted by applicable law, payment may be made by delivering a properly executed exercise notice to the Company, together with a copy of irrevocable instructions to a broker to deliver promptly to the Company the amount of sale or loan proceeds necessary to pay the purchase price, and, if requested, the amount of any federal, state, local or foreign withholding taxes. To facilitate the foregoing, the Company may, to the extent permitted by applicable law, enter into agreements for coordinated procedures with one or more brokerage firms. To the extent permitted by applicable law, the Committee may also provide for Company loans to be made for purposes of the exercise of Options.

(iii) Payment may be made by instructing the Company to withhold a number of Shares having a Fair Market Value (based on the Fair Market Value of the Common Stock on the date the applicable Option is exercised) equal to the product of (A) the exercise price multiplied by (B) the number of Shares in respect of which the Option shall have been exercised.

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(h) *Delivery; Rights of Stockholders.* No Shares shall be delivered pursuant to the exercise of an Option until the exercise price therefor has been fully paid and applicable taxes have been withheld. The applicable Participant shall have all of the rights of a stockholder of the Company holding the class or series of Common Stock that is subject to the Option or Stock Appreciation Right (including, if applicable, the right to vote the applicable Shares and the right to receive dividends), when the Participant (i) has given written notice of exercise, (ii) if requested, has given the representation described in Section 14(a), and (iii) in the case of an Option, has paid in full for such Shares.

(i) *Terminations of Employment.* Subject to Section 10, a Participant’s Options and Stock Appreciation Rights shall be forfeited upon such Participant’s Termination of Employment, except as set forth below:

(i) Upon a Participant’s Termination of Employment by reason of death, any Option or Stock Appreciation Right held by the Participant that was exercisable immediately before the Termination of Employment may be exercised at any time until the earlier of (A) the first anniversary of the date of such death and (B) the expiration of the Term thereof;

(ii) Upon a Participant’s Termination of Employment by reason of Disability or Retirement, any Option or Stock Appreciation Right held by the Participant that was exercisable immediately before the Termination of Employment may be exercised at any time until the earlier of (A) the first anniversary of such Termination of Employment and (B) the expiration of the Term thereof;

(iii) Upon a Participant’s Termination of Employment for Cause, any Option or Stock Appreciation Right held by the Participant shall be forfeited, effective as of such Termination of Employment;

(iv) Upon a Participant’s Termination of Employment for any reason other than death, Disability, Retirement or for Cause, any Option or Stock Appreciation Right held by the Participant that was exercisable immediately before the Termination of Employment may be exercised at any time until the earlier of (A) the 90th day following such Termination of Employment and (B) expiration of the Term thereof; and

(v) Notwithstanding the above provisions of this Section 5(i), if a Participant dies after such Participant’s Termination of Employment but while any Option or Stock Appreciation Right remains exercisable as set forth above, such Option or Stock Appreciation Right may be exercised at any time until the later of (A) the earlier of (1) the first anniversary of the date of such death and (2) expiration of the Term thereof and (B) the last date on which such Option or Stock Appreciation Right would have been exercisable, absent this Section 5(i)(v).

Notwithstanding the foregoing, the Committee shall have the power, in its discretion, to apply different rules concerning the consequences of a Termination of Employment; *provided, however,* that if such rules are less favorable to the Participant than those set forth above, such rules are set forth in the applicable Award Agreement. If an Incentive Stock Option is exercised after the expiration of the exercise periods that apply for purposes of Section 422 of the Code, such Option will thereafter be treated as a Nonqualified Option.

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(j) *Nontransferability of Options and Stock Appreciation Rights.* No Option or Free-Standing SAR shall be transferable by a Participant other than (i) by will or by the laws of descent and distribution, or (ii) in the case of a Nonqualified Option or Free-Standing SAR, pursuant to a qualified domestic relations order or as otherwise expressly permitted by the Committee including, if so permitted, pursuant to a transfer to the Participant’s family members or to a charitable organization, whether directly or indirectly or by means of a trust or partnership or otherwise. For purposes of this Plan, unless otherwise determined by the Committee, “family member” shall have the meaning given to such term in General Instructions A.1(a)(5) to Form S-8 under the Securities Act of 1933, as amended, and any successor thereto. A Tandem SAR shall be transferable only with the related Option as permitted by the preceding sentence. Any Option or Stock Appreciation Right shall be exercisable, subject to the terms of this Plan, only by the applicable Participant, the guardian or legal representative of such Participant, or any person to whom such Option or Stock Appreciation Right is

permissibly transferred pursuant to this Section 5(j), it being understood that the term "Participant" includes such guardian, legal representative and other transferee; *provided, however*, that the term "Termination of Employment" shall continue to refer to the Termination of Employment of the original Participant.

## SECTION 6. Restricted Stock

With respect to Adjusted Awards, the provisions below will be applicable only to the extent that they are not inconsistent with the Employee Matters Agreement and the terms of the Adjusted Award assumed under the Employee Matters Agreement:

(a) *Nature of Awards and Certificates.* Shares of Restricted Stock are actual Shares issued to a Participant, and shall be evidenced in such manner as the Committee may deem appropriate, including book-entry registration or issuance of one or more stock certificates. Any certificate issued in respect of Shares of Restricted Stock shall be registered in the name of the applicable Participant and, in the case of Restricted Stock, shall bear an appropriate legend referring to the terms, conditions, and restrictions applicable to such Award, substantially in the following form:

"The transferability of this certificate and the shares of stock represented hereby are subject to the terms and conditions (including forfeiture) of the HSNi, Inc. 2008 Stock and Annual Incentive Plan and an Award Agreement. Copies of such Plan and Agreement are on file at the offices of HSNi, Inc., 1 HSN Drive, St. Petersburg, Florida 33729."

The Committee may require that the certificates evidencing such shares be held in custody by the Company until the restrictions thereon shall have lapsed and that, as a condition of any Award of Restricted Stock, the applicable Participant shall have delivered a stock power, endorsed in blank, relating to the Common Stock covered by such Award.

(b) *Terms and Conditions.* Shares of Restricted Stock shall be subject to the following terms and conditions:

(i) The Committee shall, prior to or at the time of grant, condition the vesting or transferability of an Award of Restricted Stock upon the continued service of the applicable

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Participant or the attainment of Performance Goals, or the attainment of Performance Goals and the continued service of the applicable Participant. In the event that the Committee conditions the grant or vesting of an Award of Restricted Stock upon the attainment of Performance Goals or the attainment of Performance Goals and the continued service of the applicable Participant, the Committee may, prior to or at the time of grant, designate such an Award as a Qualified Performance-Based Award. The conditions for grant, vesting, or transferability and the other provisions of Restricted Stock Awards (including without limitation any Performance Goals) need not be the same with respect to each Participant.

(ii) Subject to the provisions of the Plan and the applicable Award Agreement, during the period, if any, set by the Committee, commencing with the date of such Restricted Stock Award for which such vesting restrictions apply and until the expiration of such vesting restrictions (the "Restriction Period"), the Participant shall not be permitted to sell, assign, transfer, pledge or otherwise encumber Shares of Restricted Stock.

(iii) Except as provided in this Section 6 and in the applicable Award Agreement, the applicable Participant shall have, with respect to the Shares of Restricted Stock, all of the rights of a stockholder of the Company holding the class or series of Common Stock that is the subject of the Restricted Stock, including, if applicable, the right to vote the Shares and the right to receive any cash dividends. If so determined by the Committee in the applicable Award Agreement and subject to Section 14(e), (A) cash dividends on the class or series of Common Stock that is the subject of the Restricted Stock Award shall be automatically deferred and reinvested in additional Restricted Stock, held subject to the vesting of the underlying Restricted Stock, and (B) subject to any adjustment pursuant to Section 3(d), dividends payable in Common Stock shall be paid in the form of Restricted Stock of the same class as the Common Stock with which such dividend was paid, held subject to the vesting of the underlying Restricted Stock.

(iv) Except as otherwise set forth in the applicable Award Agreement, upon a Participant's Termination of Employment for any reason during the Restriction Period, all Shares of Restricted Stock still subject to restriction shall be forfeited by such Participant; *provided, however*, that subject to Section 11(b), the Committee shall have the discretion to waive, in whole or in part, any or all remaining restrictions with respect to any or all of such Participant's Shares of Restricted Stock.

(v) If and when any applicable Performance Goals are satisfied and the Restriction Period expires without a prior forfeiture of the Shares of Restricted Stock for which legended certificates have been issued, unlegended certificates for such Shares shall be delivered to the Participant upon surrender of the legended certificates.

## SECTION 7. Restricted Stock Units

With respect to Adjusted Awards, the provisions below will be applicable only to the extent that they are not inconsistent with the Employee Matters Agreement and the terms of the Adjusted Award assumed under the Employee Matters Agreement:

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(a) *Nature of Awards.* Restricted Stock Units are Awards denominated in Shares that will be settled, subject to the terms and conditions of the Restricted Stock Units, in an amount in cash, Shares or both, based upon the Fair Market Value of a specified number of Shares.

(b) *Terms and Conditions.* Restricted Stock Units shall be subject to the following terms and conditions:

(i) The Committee shall, prior to or at the time of grant, condition the grant, vesting, or transferability of Restricted Stock Units upon the continued service of the applicable Participant or the attainment of Performance Goals, or the attainment of Performance Goals and the continued service of the applicable Participant. In the event that the Committee conditions the grant or vesting of Restricted Stock Units upon the attainment of Performance Goals or the attainment of Performance Goals and the continued service of the applicable Participant, the Committee may, prior to or at the time of grant, designate such Awards as Qualified Performance-Based Awards. The conditions for grant, vesting or transferability and the other provisions of Restricted Stock Units (including without limitation any Performance Goals) need not be the same with respect to each Participant. An Award of Restricted Stock Units shall be settled as and when the Restricted Stock Units vest or at a later time specified by the Committee or in accordance with an election of the Participant, if the Committee so permits.

(ii) Subject to the provisions of the Plan and the applicable Award Agreement, during the period, if any, set by the Committee, commencing with the date of such Restricted Stock Units for which such vesting restrictions apply and until the expiration of such vesting restrictions (the "Restriction Period"), the Participant shall not be permitted to sell, assign, transfer, pledge or otherwise encumber Restricted Stock Units.

(iii) The Award Agreement for Restricted Stock Units shall specify whether, to what extent and on what terms and conditions the applicable Participant shall be entitled to receive current or deferred payments of cash, Common Stock or other property corresponding to the dividends payable on the Common Stock (subject to Section 14(e) below).

(iv) Except as otherwise set forth in the applicable Award Agreement, upon a Participant's Termination of Employment for any reason during the Restriction

Period, all Restricted Stock Units still subject to restriction shall be forfeited by such Participant; *provided, however*, that subject to Section 11(b), the Committee shall have the discretion to waive, in whole or in part, any or all remaining restrictions with respect to any or all of such Participant's Restricted Stock Units.

#### SECTION 8. Other Stock-Based Awards

Other Awards of Common Stock and other Awards that are valued in whole or in part by reference to, or are otherwise based upon or settled in, Common Stock, including (without limitation), unrestricted stock, performance units, dividend equivalents, and convertible debentures, may be granted under the Plan.

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#### SECTION 9. Bonus Awards

(a) *Determination of Awards.* The Committee shall determine the total amount of Bonus Awards for each Plan Year or such shorter performance period as the Committee may establish in its sole discretion. Prior to the beginning of the Plan Year or such shorter performance period as the Committee may establish in its sole discretion (or such later date as may be prescribed by the Internal Revenue Service under Section 162(m) of the Code), the Committee shall establish Performance Goals for Bonus Awards for the Plan Year or such shorter period; *provided*, that such Performance Goals may be established at a later date for Participants who are not "covered employees" (within the meaning of Section 162(m)(3) of the Code). Bonus amounts payable to any individual Participant with respect to a Plan Year will be limited to a maximum of \$10 million. For performance periods that are shorter than a Plan Year, such \$10 million maximum may be pro-rated if so determined by the Committee.

(b) *Payment of Awards.* Bonus Awards under the Plan shall be paid in cash or in shares of Common Stock (valued at Fair Market Value as of the date of payment) as determined by the Committee, as soon as practicable following the close of the Plan Year or such shorter performance period as the Committee may establish. It is intended that a Bonus Award will be paid no later than the fifteenth (15<sup>th</sup>) day of the third month following the later of: (i) the end of the Participant's taxable year in which the requirements for such Bonus Award have been satisfied by the Participant or (ii) the end of the Company's fiscal year in which the requirements for such Bonus Award have been satisfied by the Participant. The Committee may at its option establish procedures pursuant to which Participants are permitted to defer the receipt of Bonus Awards payable hereunder. The Bonus Award for any Plan Year or such shorter performance period to any Participant may be reduced or eliminated by the Committee in its discretion.

#### SECTION 10. Change in Control Provisions

(a) *Adjusted Awards.* With respect to all Adjusted Awards, subject to paragraph (e) of this Section 10, unless otherwise provided in the applicable Award Agreement, notwithstanding any other provision of this Plan to the contrary, upon a Participant's Termination of Employment, during the two-year period following a Change in Control, by the Company other than for Cause or Disability or by the Participant for Good Reason (as defined below):

(i) any Options outstanding as of such Termination of Employment which were outstanding as of the date of such Change in Control shall be fully exercisable and vested and shall remain exercisable until the later of (i) the last date on which such Option would be exercisable in the absence of this Section 10(a) and (ii) the earlier of (A) the first anniversary of such Change in Control and (B) expiration of the Term of such Option;

(ii) the restrictions and deferral limitations applicable to any Restricted Stock shall lapse, and such Restricted Stock outstanding as of such Termination of Employment which were outstanding as of the date of such Change in Control shall become free of all restrictions and become fully vested and transferable; and

(iii) all Restricted Stock Units outstanding as of such Termination of Employment which were outstanding as of the date of such Change in Control shall be considered to be earned and payable in full, and any restrictions shall lapse and such Restricted Stock Units shall be

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settled as promptly as is practicable in (subject to Section 3(d)) the form set forth in the applicable Award Agreement.

(b) *Impact of Event on Awards other than Adjusted Awards.* Subject to paragraph (e) of this Section 10, and paragraph (d) of Section 12, unless otherwise provided in any applicable Award Agreement and except as otherwise provided in paragraph (a) of this Section 10, in connection with a Change of Control, the Committee may make such adjustments and/or settlements of outstanding Awards as it deems appropriate and consistent with the Plan's purposes, including, without limitation, the acceleration of vesting of Awards either upon a Change of Control or upon various terminations of employment following a Change of Control. The Committee may provide for such adjustments as a term of the Award or may make such adjustments following the granting of the Award.

(c) *Definition of Change in Control.* For purposes of the Plan, unless otherwise provided in an option agreement or other agreement relating to an Award, a "Change in Control" shall mean the happening of any of the following events:

(i) The acquisition by any individual, entity or Group (a "Person"), other than the Company, of Beneficial Ownership of equity securities of the Company representing more than 50% of the voting power of the then outstanding equity securities of the Company entitled to vote generally in the election of directors (the "Outstanding Company Voting Securities"); *provided, however*, that any acquisition that would constitute a Change in Control under this subsection (i) that is also a Business Combination shall be determined exclusively under subsection (iii) below; or

(ii) Individuals who, as of the Effective Date, constitute the Board (the "Incumbent Directors") cease for any reason to constitute at least a majority of the Board; *provided, however*, that any individual becoming a director subsequent to the Effective Date, whose election, or nomination for election by the Company's stockholders, was approved by a vote of at least a majority of the Incumbent Directors at such time shall become an Incumbent Director, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board; or

(iii) Consummation of a reorganization, merger, consolidation, sale or other disposition of all or substantially all of the assets of the Company, the purchase of assets or stock of another entity, or other similar corporate transaction (a "Business Combination"), in each case, unless immediately following such Business Combination, (A) more than 50% of the Resulting Voting Power shall reside in Outstanding Company Voting Securities retained by the Company's stockholders in the Business Combination and/or voting securities received by such stockholders in the Business Combination on account of Outstanding Company Voting Securities, and (B) at least a majority of the members of the board of directors (or equivalent governing body, if applicable) of the entity resulting from such Business Combination were Incumbent Directors at the time of the initial agreement, or action of the Board, providing for such Business Combination; or

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(iv) Approval by the stockholders of the Company of a complete liquidation or dissolution of the Company.

Notwithstanding the foregoing, the Separation shall not constitute a Change in Control. For the avoidance of doubt, with respect to Adjusted Awards, any reference in an Award Agreement or the applicable IAC Long Term Incentive Plan to a “change in control,” “change of control” or similar definition shall be deemed to refer to a Change of Control hereunder.

(d) For purposes of this Section 10, “Good Reason” means (i) “Good Reason” as defined in any Individual Agreement or Award Agreement to which the applicable Participant is a party, or (ii) if there is no such Individual Agreement or if it does not define Good Reason, without the Participant’s prior written consent: (A) a material reduction in the Participant’s rate of annual base salary from the rate of annual base salary in effect for such Participant immediately prior to the Change in Control, (B) a relocation of the Participant’s principal place of business more than 35 miles from the city in which such Participant’s principal place of business was located immediately prior to the Change in Control or (C) a material and demonstrable adverse change in the nature and scope of the Participant’s duties from those in effect immediately prior to the Change in Control. In order to invoke a Termination of Employment for Good Reason, a Participant shall provide written notice to the Company of the existence of one or more of the conditions described in clauses (A) through (C) within 90 days following the Participant’s knowledge of the initial existence of such condition or conditions, and the Company shall have 30 days following receipt of such written notice (the “Cure Period”) during which it may remedy the condition. In the event that the Company fails to remedy the condition constituting Good Reason during the Cure Period, the Participant must terminate employment, if at all, within 90 days following the Cure Period in order for such Termination of Employment to constitute a Termination of Employment for Good Reason.

(e) Notwithstanding the foregoing, if any Award is subject to Section 409A of the Code, this Section 10 shall be applicable only to the extent specifically provided in the Award Agreement and as permitted pursuant to Section 14(k).

#### **SECTION 11. Qualified Performance-Based Awards; Section 16(b)**

(a) The provisions of this Plan are intended to ensure that all Options and Stock Appreciation Rights granted hereunder to any Participant who is or may be a “covered employee” (within the meaning of Section 162(m)(3) of the Code) in the tax year in which such Option or Stock Appreciation Right is expected to be deductible to the Company qualify for the Section 162(m) Exemption, and all such Awards shall therefore be considered Qualified Performance-Based Awards and this Plan shall be interpreted and operated consistent with that intention (including, without limitation, to require that all such Awards be granted by a committee composed solely of members who satisfy the requirements for being “outside directors” for purposes of the Section 162(m) Exemption (“Outside Directors”). When granting any Award other than an Option or Stock Appreciation Right, the Committee may designate such Award as a Qualified Performance-Based Award, based upon a determination that (i) the recipient is or may be a “covered employee” (within the meaning of Section 162(m)(3) of the Code) with respect to such Award, and (ii) the Committee wishes such Award to qualify for the Section 162(m) Exemption, and the terms of any such Award (and of the grant thereof) shall be

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consistent with such designation (including, without limitation, that all such Awards be granted by a committee composed solely of Outside Directors).

(b) Each Qualified Performance-Based Award (other than an Option or Stock Appreciation Right) shall be earned, vested and payable (as applicable) only upon the achievement of one or more Performance Goals (as certified in writing by the Committee, except if compensation is attributable solely to the increase in the value of the Common Stock), together with the satisfaction of any other conditions, such as continued employment, as the Committee may determine to be appropriate, and no Qualified Performance-Based Award may be amended, nor may the Committee exercise any discretionary authority it may otherwise have under this Plan with respect to a Qualified Performance-Based Award under this Plan, in any manner that would cause the Qualified Performance-Based Award to cease to qualify for the Section 162(m) Exemption; *provided, however*, that (i) the Committee may provide, either in connection with the grant of the applicable Award or by amendment thereafter, that achievement of such Performance Goals will be waived upon the death or Disability of the Participant or under any other circumstance with respect to which the existence of such possible waiver will not cause the Award to fail to qualify for the Section 162(m) Exemption as of the Grant Date, and (ii) the provisions of Section 10 shall apply notwithstanding this Section 11(b).

(c) The full Board shall not be permitted to exercise authority granted to the Committee to the extent that the grant or exercise of such authority would cause an Award designated as a Qualified Performance-Based Award not to qualify for, or to cease to qualify for, the Section 162(m) Exemption.

(d) The provisions of this Plan are intended to ensure that no transaction under the Plan is subject to (and not exempt from) the short-swing recovery rules of Section 16(b) of the Exchange Act (“Section 16(b”). Accordingly, the composition of the Committee shall be subject to such limitations as the Board deems appropriate to permit transactions pursuant to this Plan to be exempt (pursuant to Rule 16b-3 promulgated under the Exchange Act) from Section 16(b), and no delegation of authority by the Committee shall be permitted if such delegation would cause any such transaction to be subject to (and not exempt from) Section 16(b).

#### **SECTION 12. Term, Amendment and Termination**

(a) *Effectiveness.* The Plan shall be effective as of the date (the “Effective Date”) it is adopted by the Board, subject to the approval by the holders of at least a majority of the voting power represented by outstanding capital stock of the Company that is entitled generally to vote in the election of directors.

(b) *Termination.* The Plan will terminate on the tenth anniversary of the Effective Date. Awards outstanding as of such date shall not be affected or impaired by the termination of the Plan.

(c) *Amendment of Plan.* The Board may amend, alter, or discontinue the Plan, but no amendment, alteration or discontinuation shall be made which would materially impair the rights of the Participant with respect to a previously granted Award without such Participant’s consent, except such an amendment made to comply with applicable law, including without limitation

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Section 409A of the Code, stock exchange rules or accounting rules. In addition, no such amendment shall be made without the approval of the Company’s stockholders to the extent such approval is required by applicable law or the listing standards of the Applicable Exchange.

(d) *Amendment of Awards.* Subject to Section 5(d), the Committee may unilaterally amend the terms of any Award theretofore granted, but no such amendment shall cause a Qualified Performance-Based Award to cease to qualify for the Section 162(m) Exemption or without the Participant’s consent materially impair the rights of any Participant with respect to an Award, except such an amendment made to cause the Plan or Award to comply with applicable law, stock exchange rules or accounting rules.

#### **SECTION 13. Unfunded Status of Plan**

It is presently intended that the Plan constitute an “unfunded” plan for incentive and deferred compensation. The Committee may authorize the creation of trusts or other arrangements to meet the obligations created under the Plan to deliver Common Stock or make payments; *provided, however*, that unless the Committee otherwise determines, the existence of such trusts or other arrangements is consistent with the “unfunded” status of the Plan.

## SECTION 14. General Provisions

(a) *Conditions for Issuance.* The Committee may require each person purchasing or receiving Shares pursuant to an Award to represent to and agree with the Company in writing that such person is acquiring the Shares without a view to the distribution thereof. The certificates for such Shares may include any legend which the Committee deems appropriate to reflect any restrictions on transfer. Notwithstanding any other provision of the Plan or agreements made pursuant thereto, the Company shall not be required to issue or deliver any certificate or certificates for Shares under the Plan prior to fulfillment of all of the following conditions: (i) listing or approval for listing upon notice of issuance, of such Shares on the Applicable Exchange; (ii) any registration or other qualification of such Shares of the Company under any state or federal law or regulation, or the maintaining in effect of any such registration or other qualification which the Committee shall, in its absolute discretion upon the advice of counsel, deem necessary or advisable; and (iii) obtaining any other consent, approval, or permit from any state or federal governmental agency which the Committee shall, in its absolute discretion after receiving the advice of counsel, determine to be necessary or advisable.

(b) *Additional Compensation Arrangements.* Nothing contained in the Plan shall prevent the Company or any Subsidiary or Affiliate from adopting other or additional compensation arrangements for its employees.

(c) *No Contract of Employment.* The Plan shall not constitute a contract of employment, and adoption of the Plan shall not confer upon any employee any right to continued employment, nor shall it interfere in any way with the right of the Company or any Subsidiary or Affiliate to terminate the employment of any employee at any time.

(d) *Required Taxes.* No later than the date as of which an amount first becomes includible in the gross income of a Participant for federal, state, local or foreign income or employment or other tax purposes with respect to any Award under the Plan, such Participant

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shall pay to the Company, or make arrangements satisfactory to the Company regarding the payment of, any federal, state, local or foreign taxes of any kind required by law to be withheld with respect to such amount. If determined by the Company, withholding obligations may be settled with Common Stock, including Common Stock that is part of the Award that gives rise to the withholding requirement. The obligations of the Company under the Plan shall be conditional on such payment or arrangements, and the Company and its Affiliates shall, to the extent permitted by law, have the right to deduct any such taxes from any payment otherwise due to such Participant. The Committee may establish such procedures as it deems appropriate, including making irrevocable elections, for the settlement of withholding obligations with Common Stock.

(e) *Limitation on Dividend Reinvestment and Dividend Equivalents.* Reinvestment of dividends in additional Restricted Stock at the time of any dividend payment, and the payment of Shares with respect to dividends to Participants holding Awards of Restricted Stock Units, shall only be permissible if sufficient Shares are available under Section 3 for such reinvestment or payment (taking into account then outstanding Awards). In the event that sufficient Shares are not available for such reinvestment or payment, such reinvestment or payment shall be made in the form of a grant of Restricted Stock Units equal in number to the Shares that would have been obtained by such payment or reinvestment, the terms of which Restricted Stock Units shall provide for settlement in cash and for dividend equivalent reinvestment in further Restricted Stock Units on the terms contemplated by this Section 14(e).

(f) *Designation of Death Beneficiary.* The Committee shall establish such procedures as it deems appropriate for a Participant to designate a beneficiary to whom any amounts payable in the event of such Participant's death are to be paid or by whom any rights of such eligible Individual, after such Participant's death, may be exercised.

(g) *Subsidiary Employees.* In the case of a grant of an Award to any employee of a Subsidiary of the Company, the Company may, if the Committee so directs, issue or transfer the Shares, if any, covered by the Award to the Subsidiary, for such lawful consideration as the Committee may specify, upon the condition or understanding that the Subsidiary will transfer the Shares to the employee in accordance with the terms of the Award specified by the Committee pursuant to the provisions of the Plan. All Shares underlying Awards that are forfeited or canceled should revert to the Company.

(h) *Governing Law and Interpretation.* The Plan and all Awards made and actions taken thereunder shall be governed by and construed in accordance with the laws of the State of Delaware, without reference to principles of conflict of laws. The captions of this Plan are not part of the provisions hereof and shall have no force or effect.

(i) *Non-Transferability.* Except as otherwise provided in Section 5(j) or by the Committee, Awards under the Plan are not transferable except by will or by laws of descent and distribution.

(j) *Foreign Employees and Foreign Law Considerations.* The Committee may grant Awards to Eligible Individuals who are foreign nationals, who are located outside the United States or who are not compensated from a payroll maintained in the United States, or who are

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otherwise subject to (or could cause the Company to be subject to) legal or regulatory provisions of countries or jurisdictions outside the United States, on such terms and conditions different from those specified in the Plan as may, in the judgment of the Committee, be necessary or desirable to foster and promote achievement of the purposes of the Plan, and, in furtherance of such purposes, the Committee may make such modifications, amendments, procedures, or subplans as may be necessary or advisable to comply with such legal or regulatory provisions.

(k) *Section 409A of the Code.* It is the intention of the Company that no Award shall be "deferred compensation" subject to Section 409A of the Code, unless and to the extent that the Committee specifically determines otherwise as provided in the immediately following sentence, and the Plan and the terms and conditions of all Awards shall be interpreted accordingly. The terms and conditions governing any Awards that the Committee determines will be subject to Section 409A of the Code, including any rules for elective or mandatory deferral of the delivery of cash or Shares pursuant thereto and any rules regarding treatment of such Awards in the event of a Change in Control, shall be set forth in the applicable Award Agreement, and shall comply in all respects with Section 409A of the Code. Notwithstanding any other provision of the Plan to the contrary, with respect to any Award that constitutes a "nonqualified deferred compensation plan" subject to Section 409A of the Code, any payments (whether in cash, Shares or other property) to be made with respect to the Award upon the Participant's Termination of Employment shall be delayed until the first day of the seventh month following the Participant's Termination of Employment if the Participant is a "specified employee" within the meaning of Section 409A of the Code.

(l) *Employee Matters Agreement.* Notwithstanding anything in this Plan to the contrary, to the extent that the terms of this Plan are inconsistent with the terms of an Adjusted Award, the terms of the Adjusted Award shall be governed by the Employee Matters Agreement, the applicable IAC Long-Term Incentive Plan and the award agreement entered into thereunder.

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**HSN, Inc.**  
**Deferred Compensation Plan for Non-Employee Directors**

1. **Purpose.** The purpose of the HSN, Inc. Deferred Compensation Plan for Non-Employee Directors (the "Plan") is to provide non-employee directors of HSN, Inc. (or any successor thereto) (the "Company") with an opportunity to defer Director Fees (as defined in paragraph 4(b) below).
2. **Effective Date.** The Plan shall become effective on August \_\_\_\_, 2008, subject to approval by the Company's Board of Directors (the "Board").
3. **Eligibility.** Any director of the Company who is not an employee of the Company or of any subsidiary or affiliate of the Company is eligible to participate in the Plan.
4. **Election to Defer Compensation.**
  - (a) **Time of Eligibility.** An election to defer Director Fees by a newly elected director shall be made by such director within the 30-day period following his or her election to the Board, which election shall apply only to Director Fees earned for services performed *after* the date of such election. A director who has either (i) not previously elected to defer Director Fees or (ii) discontinued (or wishes to modify) a prior election to defer Director Fees may elect to defer Director Fees (or modify an existing deferral election) by giving written notice to the Company on or prior to November 1 of each year (or such other date as may be determined from time to time by the Secretary of the Company in accordance with paragraph 10 of the Plan and in compliance with applicable law). Any such election shall only apply to Director Fees earned for services performed during the calendar year *following* such written notice. The effectiveness of a given election shall continue until the participant's "separation from service," as defined under Section 409A of the Internal Revenue Code of 1986, as amended (the "Code") and Treasury Regulation §1.409A, from the Company and any entity that would be treated as a single employer with the Company under Section 414(b) or 414(c) of the Code (a "Separation from Service") or until the end of the calendar year during which the director gives the Company written notice of its discontinuance or modification, whichever shall occur first. Any notice of discontinuance or modification shall operate prospectively from the first day of the calendar year following the receipt of such written notice by the Secretary of the Company, and Director Fees payable during any subsequent calendar year shall either be paid (absent any timely future deferral election) or deferred in accordance with the terms of the discontinuance or modified election, as applicable; *provided, however*, that Director Fees theretofore deferred shall continue to be withheld and shall be paid in accordance with the notice of election pursuant to which they were withheld. All written notices regarding deferral elections and/or the discontinuance or modification of prior deferral elections shall be made on a form prescribed by the Company.
  - (b) **Amount of Deferral.** A participant may elect to defer receipt of all or a specified portion of the cash fees receivable by such director for services performed as a

director of the Company (which amounts shall include fees for services as a member of one or more Committee(s) of the Board and meeting attendance fees, if any (among other fees), as and if applicable from time to time) that are otherwise payable to the director in cash (the "Director Fees").

- (c) **Manner of Electing Deferral.** A participant shall elect to defer Director Fees by giving written notice to the Company in a form prescribed by the Company. Such notice shall include:
  - (i) the percentage or amount of Director Fees to be deferred (the "Deferred Fees");
  - (ii) the allocation of the Deferred Fees between the "Cash Fund" or "Share Units;" and
  - (iii) in the case of a participant's initial election only, an election of a lump-sum payment or of a number of annual installments (not to exceed five) for the payment of the Deferred Fees (plus the amounts (if any) credited under Section 5), with such lump-sum payment or the first installment payment occurring on the later of (A) the calendar year following the calendar year in which the participant's Separation from Service occurs (but not earlier than January 15<sup>th</sup> of such year) or (B) the first day of the seventh month following the date on which the participant's Separation from Service occurs (and otherwise in compliance with applicable law), with any successive annual installment payments to be made not earlier than January 15<sup>th</sup> of each such year. Any payment election made by a participant in connection with his or her initial election to participate in the Plan shall apply to all Deferred Fees, whether covered by the initial deferral election or a subsequent deferral election; *provided, however*, that this paragraph 4(c)(iii) shall not preclude subsequent modifications to the payment election described immediately above that are made in connection with a participant's Separation from Service and in compliance with paragraph (d) below.
- (d) A participant may change his or her payment election in accordance with the following requirements:
  - (i) Subject to clauses (ii) and (iii) of this paragraph (d), such election may not take effect until the twelve (12) month anniversary of the date the election is made and filed with the Secretary of the Company using a form prescribed by the Company;
  - (ii) Such lump-sum payment or the first installment payment shall not be made less than five (5) years after the date that the participant's Deferred Fees (plus the amounts (if any) credited under Section 5) would have been paid pursuant to paragraph (c)(iii) above (or such later year if a prior modification was made pursuant to this paragraph); and

- (iii) Any new election shall not be effective unless made at least twelve (12) months prior to the year in which the payment of the Deferred Fees (plus the amounts (if any) credited under Section 5) would otherwise commence.
5. **Deferred Compensation Account.** The Company shall establish a book-entry account for each participant to record the participant's Deferred Fees (the "Account").
    - (a) For Deferred Fees allocated by the participant to the Cash Fund:
      - (i) at the time the Director Fees would otherwise have been payable, the Account will be credited with the amount of the Deferred Fees, receipt of which the participant has elected to defer, and
      - (ii) at the end of each calendar year or terminal portion of a year, the Account will be credited with deemed interest, at an annual rate equivalent to the weighted average prime or base lending rate of JP Morgan Chase Bank (including any successor thereto or such other financial institution



that may be selected from time to time by the Secretary of the Company in accordance with paragraph 10 of the Plan and in accordance with applicable law) for the relevant year or portion thereof (the “Interest Equivalents”), upon the average daily balance in the Account during such year or portion thereof.

(b) For Deferred Fees allocated by the participant to Share Units:

(i) at the time the Director Fees would otherwise have been payable, (A) the Account will be credited with the amount of the Deferred Fees, receipt of which the participant has elected to defer and (B) such amount of Deferred Fees shall be converted on such date to a number of “Share Units” (computed to the nearest 1/1000 of a share) equal to the number of shares of common stock, par value \$.01 per share (“Common Stock”), of the Company that theoretically could have been purchased on such date with such amount of Deferred Fees, using the closing price for the Common Stock on such date (or, if such date is not a trading day, on the next preceding trading day) on The Nasdaq Stock Market’s National Market System (“Nasdaq”) or, if the Common Stock is not then listed or quoted on Nasdaq, the principal stock exchange on which the Common Stock is then traded;

(ii) on each date on which a dividend is paid on the Common Stock, the Account will be credited with the number of Share Units (computed to the nearest 1/1000 of a share) which theoretically could have been purchased with the amount of dividends payable on the number of shares of Common Stock equal to the number of Share Units in the participant’s Account immediately prior to the payment of such dividend; the number of additional Share Units shall be calculated as in paragraph 5(b)(i) above, provided that, with respect to dividends paid in kind, the amount of such dividend shall be determined based on the fair

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market value of such dividend on the date of the dividend distribution (which, if such dividend is a security that is then traded on a stock exchange, the fair market value of such security shall be the closing price on such date of the security on the principal stock exchange on which the security is then traded (or, if such date is not a trading day, on the next trading day); and

(iii) on the date of the occurrence of any event described in paragraph 7(d) below, the Account will be credited with the number of Shares Units necessary for an equitable adjustment, which adjustment shall be determined in accordance with paragraphs 7(d) and 10 of the Plan and in accordance with applicable law.

(c) Unless otherwise determined by the Secretary of the Company in accordance with paragraph 10 of the Plan and in accordance with applicable law, Deferred Fees shall be payable (and related amounts credited to participant Accounts) on a quarterly basis. Each payment shall be classified as a “separate payment” under Section 409A of the Code.

6. Value of Deferred Compensation Accounts The value of each participant’s Account on any date shall consist of (a) in the case of the Cash Fund, the sum of the Deferred Fees credited in accordance with paragraph 5 above and the Interest Equivalents credited through such date, if any, and (b) in the case of the Share Units, the market value of the corresponding number of shares of Common Stock on such date, determined using the closing price for the Common Stock on such date (or, if such date is not a trading day, on the next preceding trading day) on Nasdaq, or if the Common Stock is not then listed or quoted on Nasdaq, the principal stock exchange on which the Common Stock is then traded. A participant’s Account shall be credited with Interest Equivalents or additional Share Units, if any, as applicable for so long as there is an outstanding balance credited to the Participant’s Account.

7. Payment of Deferred Compensation No payment shall be made from a participant’s Account except as follows:

(a) The balance of Deferred Fees and Interest Equivalents in a participant’s Account credited to the Cash Fund shall be paid in cash in the manner elected in accordance with the provisions of paragraph 4(c) above. If annual installments are elected, the amount of the first payment shall be a fraction of the balance in the participant’s Account as of the December 31 of the year preceding such payment, the numerator of which is one and the denominator of which is the total number of annual installments elected. The amount of each subsequent payment shall be a fraction of the balance in the participant’s Account as of December 31 of the year preceding each subsequent payment, the numerator of which is one and the denominator of which is the total number of installments elected minus the number of installments previously paid. Each payment pursuant to this paragraph 7(a) shall include Interest Equivalents, but only on the amount being paid, from the preceding December 31 to the date of payment.

(b) The balance in a participant’s Account credited to Share Units shall be paid in the number of actual shares of Common Stock equal to the whole number of

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Share Units in the participant’s Account. If annual installments are elected, the whole number of shares of Common Stock in the first payment shall be a fraction of the number of Share Units in the participant’s Account as of December 31 of the year preceding such payment, the numerator of which is one and the denominator of which is the total number of annual installments elected. The whole number of shares of Common Stock in each subsequent payment shall be a fraction of the Share Units in the participant’s Account as of December 31 of the year preceding each subsequent payment, the numerator of which is one and the denominator of which is the total number of installments elected minus the number of installments previously paid. If annual installments are elected, cash payments in lieu of fractional shares of Common Stock issuable in respect of fractional Share Units, if applicable, shall be made with the last payment.

(c) Notwithstanding the election of the participant pursuant to paragraph 4(c), in the event of a participant’s death while a director, “conflict of interest” within the meaning of Treasury Regulation Section 1.409A-3(j)(4)(iii), or “disability” within the meaning of Treasury Regulation Section 1.409A-3(i)(4), the balance in the participant’s Account (in the case of the Cash Fund, including Interest Equivalents in relation to the elapsed portion of a year) shall be determined as of such date of death, conflict of interest or disability, and such balance shall be paid in one lump-sum payment in cash in the case of the Cash Fund or in actual shares of Common Stock in the case of Share Units to the participant or the participant’s estate, as the case may be, as soon as reasonably practicable thereafter (and otherwise in compliance with applicable law and Section 409A of the Code) but in no event later than the later of the last day of such calendar year in which the death, conflict of interest or disability occurred or ninety (90) days following the occurrence of the death, conflict of interest or disability.

(d) In the event of any merger, consolidation, acquisition of property or shares, stock rights offering, liquidation, disaffiliation, or similar event affecting the Company or any of its subsidiaries, the Board or the Compensation and Human Resources Committee (or such other Committee as the Board may from time to time designate) (the “Committee”) may make such equitable substitutions or adjustments in the aggregate number of Share Units in a participant’s Account, in the form or type of property represented by such Share Units and in the number and kind of shares reserved for issuance as the Board or the Committee deems appropriate. In the event of a stock dividend, stock split, reverse stock split, separation, spinoff, reorganization, extraordinary dividend of cash or other property, share combination, or recapitalization or similar event affecting the capital structure of the Company, the Committee or the Board shall make such substitutions or adjustments as it deems appropriate and equitable to the aggregate number of Share Units in a participant’s Account, in the form or type of property represented by such Share Units and in the number and kind of shares reserved for issuance. Any successor corporation or other acquirer of the Company shall be required to assume the Company’s obligations hereunder and substitute an appropriate number of shares of stock or other equity measure of such successor entity for Share Units.

8. Participant’s Rights Unsecured. The right of a participant to receive any unpaid portion of the participant’s Account, whether the Cash Fund or Share Units,

shall be an unsecured claim against the general assets of the Company.

9. Nonassignability. The right of a participant to receive any unpaid portion of the participant's Account shall not be assigned, transferred, pledged or encumbered or be subject in any manner to alienation or anticipation.

10. Administration. This Plan shall be administered by the Secretary of the Company, who shall have the authority to adopt rules and regulations for carrying out the Plan and to interpret, construe and implement the provisions thereof.

11. Stock Subject to Plan. The total number of Share Units that may be credited to the Accounts of all eligible directors, and the total number of shares of Common Stock reserved and available for issuance, under the Plan shall be 100,000.

12. Conditions Upon Issuance of Common Stock. Shares of Common Stock shall not be issued pursuant to the Plan unless the issuance and delivery of such shares pursuant hereto shall comply with all relevant provisions of law, including, without limitation, the Securities Act of 1933, as amended, the Securities Exchange Act of 1934, as amended, the rules and regulations promulgated thereunder, and the requirements of any stock exchange upon which the shares of Common Stock may then be listed, and shall be further subject to the approval of counsel for the Company with respect to such compliance.

13. Amendment and Termination. This Plan may be amended, modified or terminated at any time by the Committee or the Board *provided, however*, that no such amendment, modification or termination shall, without the consent of a participant, adversely affect such participant's rights with respect to amounts theretofore accrued to the participant's Account and any amendment or termination of the Plan shall be effected in accordance with the requirements of Section 409A of the Code.

14. Section 409A of the Code.

(a) The terms and conditions of the Plan are intended to comply (and shall be interpreted in accordance) with Section 409A of the Code and the regulations thereunder.

(b) No action shall be taken under the Plan that will cause any Account to fail to comply in any respect with Section 409A of the Code without the written consent of the participant.

(c) Any adjustments to Share Units and/or cash payments made pursuant to paragraph 7(d) shall be made (i) in compliance with the requirements of Section 409A of the Code and (ii) in such a manner as to ensure that after such adjustment and/or cash payment, the Share Units or Deferred Fees to be paid comply with the requirements of Section 409A of the Code.

**CREDIT AGREEMENT**

dated as of July 25, 2008

among

**HSN, INC.,**  
as Borrower,**CERTAIN SUBSIDIARIES OF THE BORROWER,**  
as Guarantors,**THE LENDERS PARTY HERETO,****BANK OF AMERICA, N.A.,**  
as Administrative Agent and Collateral Agent,**MERRILL LYNCH CAPITAL CORPORATION,**  
as Syndication Agent,**BARCLAYS BANK PLC,**  
**JPMORGAN CHASE BANK, N.A.,**  
**MORGAN STANLEY SENIOR FUNDING, INC.**  
and**WACHOVIA BANK, NATIONAL ASSOCIATION,**  
as Co-Documentation Agents,**BANC OF AMERICA SECURITIES LLC**  
and  
**MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED,**  
as Joint Lead Arrangers

and

**BANC OF AMERICA SECURITIES LLC,**  
**MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED ,**  
**BARCLAYS CAPITAL,**  
**J.P. MORGAN SECURITIES INC.,**  
**MORGAN STANLEY & CO. INCORPORATED**  
and  
**WACHOVIA CAPITAL MARKETS, LLC,**  
as Joint Bookrunners**TABLE OF CONTENTS**

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### CREDIT AGREEMENT

This CREDIT AGREEMENT (this "Credit Agreement") is entered into as of July 25, 2008, among HSN, INC., a Delaware corporation (the "Borrower"), the Guarantors identified herein, the Lenders party hereto, and BANK OF AMERICA, N.A., as Administrative Agent and Collateral Agent.

### WITNESSETH

WHEREAS, the Borrower and the Guarantors have requested that the Lenders provide revolving credit and term loan facilities for the purposes set forth herein; and

WHEREAS, the Lenders have agreed to make the requested facilities available on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of these premises and the mutual covenants and agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

### ARTICLE I

#### DEFINITIONS AND ACCOUNTING TERMS

##### 1.01 Defined Terms.

As used in this Credit Agreement, the following terms have the meanings provided below:

"Acquisition" means the purchase or acquisition (whether in one or a series of related transactions) by any Person of (a) more than fifty percent (50%) of the Capital Stock with ordinary voting power of another Person or (b) all or substantially all of the property (other than Capital Stock) of another Person or division or line of business or business unit of another Person, whether or not involving a merger or consolidation with such Person.

"Adjusted Eurodollar Rate" means, with respect to any Borrowing of Eurodollar Rate Loans for any Interest Period, (a) an interest rate per annum (rounded upward, if necessary, to the nearest 1/100th of 1%) determined by the Administrative Agent to be equal to the Eurodollar Rate for such Borrowing of Eurodollar Rate Loans in effect for such Interest Period divided by (b) 1 minus the Statutory Reserves (if any) for such Borrowing of Eurodollar Rate Loans for such Interest Period.

“Administrative Agent” means Bank of America in its capacity as administrative agent for the Lenders under any of the Credit Documents, or any successor administrative agent.

“Administrative Agent’s Office” means the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 11.02, or such other address or account as the Administrative Agent may from time to time notify the Borrower and the Lenders.

“Administrative Questionnaire” means an administrative questionnaire for the Lenders in a form supplied by the Administrative Agent.

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

“Agent” means either of the Administrative Agent or the Collateral Agent.

“Aggregate Commitment Percentage” means, for each Lender, a fraction (expressed as a percentage carried to the ninth decimal place), the numerator of which is the amount of such Lender’s respective Revolving Commitment and Term Loan Commitment and the denominator of which is the Aggregate Commitments.

“Aggregate Commitments” means the aggregate principal amount of the Revolving Commitments and Term Loan Commitments.

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

“Aggregate Revolving Committed Amount” has the meaning provided in Section 2.01(a)(i).

“Aggregate Term Loan Committed Amount” means one hundred fifty million Dollars (\$150.0 million).

“Alternative Currency” means each of Euros, Canadian Dollars and Sterling.

“Alternative Currency Equivalent” means, at any time, with respect to any amount denominated in Dollars, the equivalent amount thereof in the applicable Alternative Currency as reasonably determined by the Administrative Agent or the applicable L/C Issuer, as the case may be, at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date) for the purchase of such Alternative Currency with Dollars.

“Alternative Currency Fronting Lender” means Bank of America, N.A.

“Alternative Currency Funding Capacity” means, at any date of determination, for any Revolving Lender, the ability of such Revolving Lender to fund Revolving Loans denominated in the applicable Alternative Currency, as set forth in the records of the Administrative Agent as notified in writing by such Revolving Lender to the Administrative Agent within three (3) Business Days of such Revolving Lender becoming a Revolving Lender hereunder.

“Alternative Currency Loan” has the meaning set forth in Section 12.01.

“Alternative Currency Participation” has the meaning set forth in Section 12.01.

“Alternative Currency Participation Settlement” has the meaning set forth in Section 12.02(i).

“Alternative Currency Participation Settlement Amount” has the meaning set forth in Section 12.02(ii).

“Alternative Currency Participation Settlement Date” has the meaning set forth in Section 12.02(i).

“Applicable Percentage” means the following percentages per annum:

**APPLICABLE PERCENTAGES FOR REVOLVING LOANS,  
SWINGLINE LOANS,  
LETTER OF CREDIT FEES AND TERM LOANS**

Pricing Level	Consolidated Total Leverage Ratio	Eurodollar Rate Loans (other than for Revolving Loans)	Base Rate Loans (other than for Revolving Loans)	Eurodollar Rate Loans (for Revolving Loans) and Letter of Credit Fees	Base Rate Loans (for Revolving Loans)
I	< 1.50:1.00	2.00 %	1.00 %	1.50 %	0.50 %
II	<sup>3</sup> 1.50 but < 2.00:1.00	2.50 %	1.50 %	2.00 %	1.00 %
III	<sup>3</sup> 2.00 but < 2.50:1.00	2.75 %	1.75 %	2.25 %	1.25 %
IV	<sup>3</sup> 2.50:1.00	3.00 %	2.00 %	2.50 %	1.50 %

Applicable Percentages for Revolving Loans, Swingline Loans, Letter of Credit Fees and Term Loans will be based on the Consolidated Total Leverage Ratio as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 7.02(b). Any increase or decrease in such Applicable Percentage resulting from a change in the Consolidated Total Leverage Ratio shall become effective on the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 7.02(b); provided, however, that if (i) a Compliance Certificate is not delivered when due in accordance therewith or (ii) an Event of Default pursuant to Section 9.01(a), (f) or (h) has occurred and is continuing, then, in the case of clause (i) pricing level IV shall apply as of the first Business Day after the date on which such Compliance Certificate was required to have been delivered until the first Business Day immediately following delivery thereof, and in the case of clause (ii) pricing level IV shall apply as of the first Business Day after the occurrence of such Event of Default until the first Business Day immediately following the cure or waiver of such Event of Default. The Applicable Percentage in effect from the Closing Date through the date for delivery of the Compliance Certificate for the first full fiscal quarter ending after the Closing Date shall be determined based upon pricing level III for Revolving Loans, Swingline Loans, Letter of Credit Fees and Term Loans.

Determinations by the Administrative Agent of the appropriate pricing level shall be conclusive absent manifest error.

In the event that any financial statement or Compliance Certificate delivered pursuant to Section 7.01 or 7.02 is shown to be inaccurate (regardless of whether this Credit Agreement or the Commitments are in effect or any Loans are outstanding when such inaccuracy is discovered), and such inaccuracy, if corrected, would have led to the application of a higher Applicable Percentage for any period (an "Applicable Period") than the Applicable Percentage applied for such Applicable Period, and only in such case, then the Borrower shall immediately (i) deliver to the Administrative Agent a corrected Compliance Certificate for such Applicable Period, (ii) determine the Applicable Percentage for such Applicable Period based upon the corrected Compliance Certificate, and (iii) immediately pay to the Administrative Agent the accrued additional interest owing as a result of such increased Applicable Percentage for such Applicable Period, which payment shall be promptly applied by the Administrative Agent in accordance with Section 2.11. The rights of the Administrative Agent and Lenders pursuant to this paragraph are in addition to rights of the Administrative Agent and Lenders with respect to Sections 2.08(b) and 9.02 and other of their respective rights under the Credit Documents.

"Applicable Period" has the meaning assigned to such term in the definition of Applicable Percentage.

"Applicable Time" means, with respect to any borrowings and payments in any Alternative Currency, the local time in the place of settlement for such Alternative Currency as may be determined by the Administrative Agent or the applicable L/C Issuer, as applicable, to be necessary for timely settlement on the relevant date in accordance with normal banking procedures in the place of payment.

"Approved Currency" means each of Dollars and each Alternative Currency.

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

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 11.06) and accepted by the Administrative Agent and, if required by Section 11.06, the Borrower, in substantially the form of Exhibit 11.06 or any other form approved by the Administrative Agent.

"Attributable Principal Amount" means (a) in the case of capital leases, the amount of capital lease obligations determined in accordance with GAAP, (b) in the case of Synthetic Leases, an amount determined by capitalization of the remaining lease payments thereunder as if it were a capital lease determined in accordance with GAAP, and (c) in the case of Sale and Leaseback Transactions, the present value (discounted in accordance with GAAP at the debt rate implied in the applicable lease) of the obligations of the lessee for rental payments during the term of such lease).

"Auto-Extension Letter of Credit" has the meaning provided in Section 2.03(b)(iii).

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"BAS" means Banc of America Securities LLC, together with its successors.

"Base Rate" means for any day a fluctuating rate per annum equal to the higher of (a) the Federal Funds Rate plus 1/2 of 1% and (b) the rate of interest in effect for such day as publicly announced from time to time by Bank of America as its "prime rate". The "prime rate" is a rate set by Bank of America based upon various factors including Bank of America's costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such rate announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change.

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

"Borrower" has the meaning provided in the recitals hereto, together with its successors and permitted assigns pursuant to Section 8.04.

"Borrowing" means (a) a borrowing consisting of simultaneous Loans of the same Type and, in the case of Eurodollar Rate Loans, having the same Interest Period, or (b) a borrowing of Swingline Loans, as appropriate.

"Business Day" means any day (other than a day which is a Saturday, Sunday, or other day on which banks in New York are authorized or required by law to close); provided, however, that (a) when used in connection with a rate determination, borrowing, or payment in respect of a Eurodollar Rate Loan, the term "Business Day" shall also exclude any day on which banks in London, England are not open for dealings in deposits of Dollars or foreign currencies, as applicable, in the London Interbank Market, (b) if such day relates to any dealings in any currency other than Dollars to be carried out pursuant to this Credit Agreement, the term "Business Day" shall also exclude any day on which banks are not open for foreign exchange dealings between banks in the home country of such foreign currency.

"Canadian Dollars" and "CS" means the lawful currency of Canada.

"Capital Stock" means (a) in the case of a corporation, capital stock, (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of capital stock, (c) in the case of a partnership, partnership interests (whether general or limited), (d) in the case of a limited liability company, membership interests and (e) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

"Cash Collateralize" has the meaning provided in Section 2.03(g).

"Cash Equivalents" means (a) securities issued or directly and fully guaranteed or insured by the United States or any agency or instrumentality thereof provided that the full faith and credit of the United States is pledged in support thereof) having maturities of not more than twelve (12) months from the date of acquisition, (b) Dollar-denominated time deposits, money market deposits and certificates of deposit of (i) any Lender that accepts such deposits in the ordinary course of such Lender's business, (ii) any domestic commercial bank of recognized standing having capital and surplus in excess of \$500.0 million or (iii) any bank whose short-term

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commercial paper rating from S&P is at least A-1 or from Moody's is at least P-1, in each case with maturities of not more than two hundred seventy (270) days from the date of acquisition, (c) commercial paper issued by any issuer bearing at least an "A-2" rating for any short-term rating provided by S&P and/or Moody's and maturing within two hundred seventy (270) days of the date of acquisition, (d) repurchase agreements entered into by the Borrower with a bank or trust company (including any of the Lenders) or recognized securities dealer having capital and surplus in excess of \$500.0 million for direct obligations issued by or fully guaranteed by the United States and having, on the date of purchase thereof, a fair market value of at least one hundred percent (100%) of the amount of the repurchase obligations, (e) Investments (classified in



accordance with GAAP as current assets) in money market investment programs registered under the Investment Company Act of 1940, as amended, that are administered by reputable financial institutions having capital and surplus of at least \$500.0 million and the portfolios of which are limited to Investments of the character described in the foregoing subclauses hereof, (f) shares of mutual funds if no less than 95% of such funds' investments satisfy the provisions of clauses (a) through (e) above, and (g) in the case of any Foreign Subsidiary, short-term investments of comparable credit quality and tenor to those referred to in clauses (a) through (f) above which are customarily used for cash management purposes in any country in which such Foreign Subsidiary operates.

“Change in Law” means the occurrence, after the Closing Date, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority.

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

(a) any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, but excluding any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) other than a Permitted Holder becomes the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934), directly or indirectly, of forty percent (40%) or more of the equity securities of the Borrower entitled to vote for members of the board of directors or equivalent governing body of the Borrower on a fully diluted basis;

(b) during any period of twelve (12) consecutive months, a majority of the members of the board of directors or other equivalent governing body of the Borrower cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by a Permitted Holder or by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body (excluding, in the case of both clauses (ii) and (iii), any individual whose initial nomination for, or

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assumption of office as, a member of that board or equivalent governing body occurs as a result of an actual or threatened solicitation of proxies or consents for the election or removal of one or more directors by any person or group other than a solicitation for the election of one (1) or more directors by or on behalf of the board of directors); or

(c) a “change of control” or any comparable term under, and as defined in, any of the documentation relating to the Senior Notes shall have occurred.

“Closing Date” means the date hereof.

“Collateral” means the collateral identified in, and at any time covered by, the Collateral Documents.

“Collateral Agent” means Bank of America in its capacity as collateral agent for the Lenders under any of the Collateral Documents, or any successor collateral agent.

“Collateral Documents” means the Security Agreement, the Pledge Agreement, the Mortgages and any other documents executed and delivered in connection with the attachment and perfection of security interests granted to secure the Obligations.

“Commercial Letter of Credit Fee” has the meaning provided in Section 2.09(b).

“Commitment Fee” has the meaning provided in Section 2.09(a).

“Commitment Letter” means the Commitment Letter dated as of June 19, 2008 among the Borrower, Bank of America, MLBUSA, Barclays Bank PLC, JPMorgan Chase Bank, N.A., Morgan Stanley Senior Funding, Inc., Wachovia Bank, National Association, Banc of America Securities LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated, Barclays Capital, the investment banking division of Barclays Bank PLC, J.P. Morgan Securities Inc. and Wachovia Capital Markets, LLC, together with all schedules and annexes thereto.

“Commitment Period” means the period from and including the Closing Date to the earlier of (a)(i) in the case of Revolving Loans and Swingline Loans, the Revolving Termination Date (ii) in the case of the Letters of Credit, the L/C Expiration Date or (iii) in the case of the Term Loans, the Funding Date, or (b) in the case of the Revolving Loans, Swingline Loans and the Letters of Credit, the date on which the applicable Revolving Commitments shall have been terminated as provided herein.

“Commitments” means the Revolving Commitment, the L/C Commitments, the Swingline Commitment and the Term Loan Commitments.

“Communications Law” means the Federal Communications Act of 1934, as amended, and the respective rules and regulations thereunder and thereof.

“Compliance Certificate” means a certificate substantially in the form of Exhibit 7.02(b).

“Consolidated Capital Expenditures” means, for any period for the Consolidated Group, without duplication, all expenditures with respect to property, plant and equipment during such

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period which should be capitalized in accordance with GAAP (including the Attributable Principal Amount of capital leases).

“Consolidated EBITDA” means, without duplication, for any period for the Consolidated Group, Consolidated Net Income in such period *plus* (A) in each case solely to the extent decreasing Consolidated Net Income in such period: (a) Consolidated Interest Expense (without giving effect to the second proviso of the definition of Consolidated Interest Expense), (b) provision for taxes, to the extent based on income or profits, (c) amortization and depreciation, (d) the amount of all expenses incurred in connection with the closing and funding of this Credit Agreement, the Senior Notes or the Transactions, (e) the amount of all non-cash deferred compensation expense, (f) the amount of all expenses associated with the early extinguishment of Indebtedness permitted hereunder incurred, (g) any losses from sales of Property, other than from sales in the ordinary course of business, (h) any non-cash impairment loss of goodwill or other intangibles required to be taken pursuant to GAAP, (i) any non-cash expense recorded with respect to stock options or other equity-based compensation, (j) any extraordinary loss in accordance with GAAP, (k) any restructuring, non-recurring or other unusual item of loss or expense (including write-offs and write-downs of assets), other than any write-off or write-down of inventory or accounts receivable; provided that the aggregate amount of any such losses or expenses in cash shall not exceed \$6.0 million in such period, (l) any non-cash loss related to discontinued operations and (m) any other non-cash charges (other than write-offs or write-downs of inventory or accounts receivable); provided that, in the case of any non-cash charge referred to in this definition of Consolidated EBITDA that relates to accruals or reserves for a future cash disbursement, such future cash disbursement shall be deducted from Consolidated

EBITDA in the period when such cash is so disbursed; *minus* (B) in each case solely to the extent increasing Consolidated Net Income in such period: (a) any extraordinary gain in accordance with GAAP, (b) any nonrecurring item of gain or income (including write-ups of assets), other than any write-up of inventory or accounts receivable, (c) any gains from sales of Property, other than from sales in the ordinary course of business, (d) any non-cash gain related to discontinued operations and (e) the aggregate amount of all other non-cash items increasing Consolidated Net Income during such period; *provided* that in the case of any non-cash item referred to in clause (B) of this definition of Consolidated EBITDA that relates to a future cash payment to the Borrower or a Subsidiary, such future cash payment shall be added to Consolidated EBITDA in the period when such payment is so received by Borrower or such Subsidiary.

Subject to the following sentence, Consolidated EBITDA for the fiscal quarters ended September 30, 2007, December 31, 2007, and March 31, 2008 shall be deemed to be \$53.9 million, \$89.1 million and \$33.1 million, respectively. Without duplication of any adjustments reflected in the amounts set forth in the immediately preceding sentence, Consolidated EBITDA for any period shall be calculated on a Pro Forma Basis pursuant to [Section 1.03\(b\)](#).

“Consolidated Excess Cash Flow” means, for any period for the Consolidated Group, (a) net cash provided by operating activities for such period as reported on the audited GAAP cash flow statement delivered under [Section 7.01\(a\)](#) *minus* (b) the sum of, in each case to the extent not otherwise reducing net cash provided by operating activities in such period, without duplication, (i) scheduled principal payments and payments of interest in each case made in cash on Consolidated Total Funded Debt during such period (including for purposes hereof, sinking fund payments, payments in respect of the principal components under capital leases and the like

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relating thereto), in each case other than in connection with a refinancing thereof, (ii) Consolidated Capital Expenditures made in cash during such period that are not financed with the proceeds of Indebtedness, an issuance of Capital Stock or from a reinvestment of Net Cash Proceeds referred to in [Section 2.06\(b\)\(ii\)](#), (iii) optional prepayments of Funded Debt during such period (other than prepayments of Revolving Loans owing under this Credit Agreement (unless, in the case of a prepayment of Revolving Loans, there is a simultaneous reduction in the Aggregate Revolving Commitments in the amount of such prepayment pursuant to [Section 2.07](#)) and other such optional prepayments made with the proceeds of other Indebtedness), (iv) to the extent not financed with the incurrence or assumption of Indebtedness or proceeds from an issuance of Capital Stock, Subject Dispositions, Specified Dispositions or Involuntary Dispositions, cash sums expended for Investments pursuant to [Section 8.02\(c\), \(i\), \(k\)](#) (other than with respect to any amount expended on such Investments through the use of the Cumulative Credit) or (v) during such period, and (v) without duplication of amounts deducted from Consolidated Excess Cash Flow in prior periods, the aggregate consideration required to be paid in cash by the Borrower or any Subsidiary pursuant to binding contracts (the “Contract Consideration”) entered into prior to or during such period relating to Consolidated Capital Expenditures to be consummated or made during the three months following the end of such period, *provided* that to the extent the aggregate amount of internally generated cash actually utilized to finance such Consolidated Capital Expenditures during such three months is less than the Contract Consideration, the amount of such shortfall shall be added to Consolidated Excess Cash Flow for the period following such period.

“Consolidated Group” means the Borrower and its consolidated Subsidiaries, as determined in accordance with GAAP.

“Consolidated Interest Coverage Ratio” means, as of the last day of each fiscal quarter for the period of four (4) consecutive fiscal quarters then ending, the ratio of (i) Consolidated EBITDA of the Consolidated Group to (ii) Consolidated Interest Expense of the Consolidated Group.

“Consolidated Interest Expense” means, for any period, the sum of the total interest expense of the Consolidated Group (calculated without regard to any limitations on the payment thereof) plus, without duplication, the interest component under capital leases determined on a consolidated basis; *provided* that the amortization of deferred financing, legal and accounting costs with respect to this Credit Agreement and the Senior Notes shall be excluded from Consolidated Interest Expense to the extent the same would otherwise have been included therein; *provided further* that subject to adjustment for events occurring after the Funding Date pursuant to [Section 1.03\(b\)](#), Consolidated Interest Expense for any period ending prior to the first anniversary of the Funding Date shall be determined by multiplying (x) Consolidated Interest Expense from and including the Funding Date to and including the last day of such period by (y) a fraction, the numerator of which is 365 and the denominator of which is the number of days in such period.

Without duplication of any adjustments reflected in the calculations set forth in the second proviso of the immediately preceding sentence, Consolidated Interest Expense shall be calculated on a Pro Forma Basis pursuant to [Section 1.03\(b\)](#).

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“Consolidated Net Income” means, for any period for the Consolidated Group, the net income (or loss), determined on a consolidated basis (after any deduction for minority interests) of the Consolidated Group in accordance with GAAP, *provided* that (i) in determining Consolidated Net Income, the net income of any other Person which is not a Subsidiary of the Borrower or is accounted for by the Borrower by the equity method of accounting shall be included only to the extent of the payment of cash dividends or cash distributions by such other Person to a member of the Consolidated Group during such period, (ii) the net income of any Subsidiary of the Borrower (other than a Guarantor) that is not distributed to the Borrower or a Guarantor shall be excluded to the extent that the declaration or payment of cash dividends or similar cash distributions by that Subsidiary of that net income is not at the date of determination permitted by operation of its Organization Documents or any agreement, instrument or law applicable to such Subsidiary and (iii) the cumulative effect of any change in accounting principles shall be excluded. Consolidated Net Income shall be calculated on a Pro Forma Basis pursuant to [Section 1.03\(b\)](#).

“Consolidated Total Assets” means the total assets of the Borrower and its Subsidiaries on a consolidated basis determined in accordance with GAAP, as shown on the most recent balance sheet of the Borrower required to have been delivered pursuant to [Section 7.01\(a\)](#) or (b) or, for the period prior to the time any such statements are required to be so delivered pursuant to [Section 7.01\(a\)](#) or (b), as shown on the financial statements referred to in the first sentence of [Section 6.05](#).

“Consolidated Total Funded Debt” means, without duplication, at any time, the principal amount of all Funded Debt of the Consolidated Group at such time determined on a consolidated basis (it being understood and agreed that (i) outstanding undrawn commercial letters of credit in an aggregate principal amount not to exceed \$50.0 million shall not constitute Funded Debt, (ii) standby letters of credit shall constitute Funded Debt, (iii) all outstanding undrawn commercial letters of credit in an aggregate principal amount in excess of \$50.0 million shall constitute Funded Debt and (iv) all drawn and unreimbursed letters of credit shall constitute Funded Debt).

“Consolidated Total Leverage Ratio” means, as of the last day of each fiscal quarter, the ratio of (i) Consolidated Total Funded Debt on such day to (ii) Consolidated EBITDA of the Consolidated Group for the period of four (4) consecutive fiscal quarters ending as of such day.

“Contract Consideration” has the meaning assigned to such term in the definition of Consolidated Excess Cash Flow.

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

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

“Credit Agreement” has the meaning provided in the recitals hereto, as the same may be amended and modified from time to time.

“Credit Documents” means this Credit Agreement, the Notes, the Collateral Documents, the Fee Letter, the Issuer Documents, the Joinder Agreements, and the Revolving Lender Joinder Agreements and the Incremental Term Loan Joinder Agreement.

“Credit Extension” means each of the following: (a) a Borrowing and (b) an L/C Credit Extension.

“Credit Parties” means the Borrower and each Subsidiary of the Borrower that is a party to a Credit Document.

“Credit Party Materials” has the meaning provided in Section 7.02.

“Cumulative Credit” means, with respect to any proposed use of the Cumulative Credit at any time, an amount equal to (a) the sum of (i)(A) the amount of Consolidated Excess Cash Flow less (B) the ECF Application Amount for (x) in the case of the fiscal year of the Borrower ending December 31, 2008, the first full fiscal quarter completed after the Funding Date and (y) in the case of each fiscal year of the Borrower ending after December 31, 2008, such fiscal year, in each case to the extent the financial statements required to be delivered for such fiscal year pursuant to Section 7.01(a) have been delivered and all prepayments that may be required pursuant to Section 2.06(b)(iv) with respect to the Consolidated Excess Cash Flow generated in such fiscal year have been made plus (ii) the aggregate amount of Net Cash Proceeds of any issuance of Qualified Capital Stock of the Borrower (but not including any issuance or purchase referred to in Sections 8.02(c), (r) or 8.06(h)) after the Funding Date and at or prior to such time, plus (iii) in the case of a use of the Cumulative Credit to make an Investment pursuant to Section 8.02(k) only, the amount of 50% of Domestic Cash, plus (b) to the extent not otherwise reflected in Consolidated Excess Cash Flow, the amount of cash returns on any Investment made pursuant to Section 8.02(k) (other than any Investment subsequently deemed to be made pursuant to Section 8.02(e)) in a Person other than the Borrower or a Subsidiary (to the extent such Investment was made through the use of the Cumulative Credit) resulting from interest payments, dividends, repayments of loans or advances or profits from Dispositions of Property, in each case to the extent actually received by the Borrower or a Guarantor at or prior to such time minus (c) the aggregate amount of Investments and Restricted Payments made since the Funding Date pursuant to Sections 8.02(k) (excluding Investments subsequently deemed to have been made pursuant to Section 8.02(e) and 8.06(f), respectively, through utilization of the Cumulative Credit (excluding such proposed use of the Cumulative Credit (but including any other simultaneous proposed use of the Cumulative Credit)).

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

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

“Default Rate” means an interest rate equal to (a) with respect to Obligations other than (i) Eurodollar Rate Loans and (ii) Letter of Credit Fees, the Base Rate plus the Applicable Percentage, if any, applicable to such Loans plus two percent (2%) per annum; (b) with respect to Eurodollar Rate Loans, the Adjusted Eurodollar Rate plus the Applicable Percentage, if any, applicable to such Loans plus two percent (2%) per annum; and (c) with respect to Letter of Credit Fees, a rate equal to the Applicable Percentage plus two percent (2%) per annum.

“Defaulting Lender” means any Lender as of any date of determination that (a) has failed to fund any portion of the Loans, participations in L/C Obligations or participations in Swingline Loans required to be funded by it hereunder within one (1) Business Day of the date required to be funded by it hereunder and has not cured such failure prior to the date of determination, (b) has otherwise failed to pay over to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within one (1) Business Day of the date when due, unless the subject of a good faith dispute, and has not cured such failure prior to the date of determination, or (c) has been deemed insolvent or become the subject of a bankruptcy or insolvency proceeding.

“Disposition” or “Dispose” means the sale, transfer, license, lease or other disposition (including any Sale and Leaseback Transaction) of any Property by any Person, including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith (but excluding the making of any Investment pursuant to Section 8.02).

“Disqualified Capital Stock” means Capital Stock that (a) requires the payment of any dividends or distributions (other than dividends or distributions payable solely in shares of Capital Stock other than Disqualified Capital Stock) prior to the date that is the first anniversary of the Final Maturity Date or (b) matures or is mandatorily redeemable or subject to mandatory repurchase or redemption or repurchase at the option of the holders thereof, in whole or in part and whether upon the occurrence of any event, pursuant to a sinking fund obligation, on a fixed date or otherwise, in each case prior to the date that is the first anniversary of the Final Maturity Date (other than upon payment in full of the Obligations (other than contingent indemnification obligations for which no claim has been made) and termination of the Commitments).

“Dollar” or “\$” means the lawful currency of the United States.

“Dollar Equivalent” means, at any time, (a) with respect to any amount denominated in Dollars, such amount, and (b) with respect to any amount denominated in any Alternative Currency, the equivalent amount thereof in Dollars as determined by the Administrative Agent or the applicable L/C Issuer, as the case may be, at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date) for the purchase of Dollars with such Alternative Currency.

“Domestic Cash” means the amount of cash and Cash Equivalents (not to exceed \$50.0 million in the aggregate) reflected in the bank statements of the Borrower and the Borrower’s Domestic Subsidiaries immediately after giving effect to the Transactions (but not including any proceeds of Revolving Loans or Swingline Loans), to the extent such amount is unrestricted as of

the Spin-Off Date after giving effect to the Transactions (including without limitation all payments pursuant to Section 4.04 of the Separation Agreement).

“Domestic Credit Party” means any Credit Party that is organized under the laws of any State of the United States or the District of Columbia.

“Domestic Subsidiary” means any Subsidiary that is not a Foreign Subsidiary, other than any Subsidiary the Capital Stock of which is to be transferred to IAC or one or more of IAC’s Subsidiaries (other than the Borrower and its Subsidiaries) in connection with the Spin-Off.

“ECF Application Amount” means, with respect to any fiscal year of the Borrower, the product of the ECF Percentage applicable to such fiscal year times the Consolidated Excess Cash Flow for such fiscal year.

“ECF Percentage” means, with respect to any fiscal year of the Borrower (x) ending on December 31, 2008, zero percent (0%) and (y) ending after December 31,

2008, if the Consolidated Total Leverage Ratio as of the last day of such fiscal year is (i) greater than or equal to 2.25:1.00, fifty percent (50%), (ii) less than 2.25:1.00 but greater than or equal to 1.75:1.00, twenty-five percent (25%) and (iii) less than 1.75:1.00, zero percent (0%).

“Eligible Assignee” means (a) a Lender; (b) an Affiliate of a Lender; (c) an Approved Fund; and (d) any other Person (other than a natural person) approved by the party or parties whose approval is required under Section 11.06(b); provided that notwithstanding the foregoing, “Eligible Assignee” shall not include the Borrower or any of the Borrower’s Affiliates or Subsidiaries.

“EMU Legislation” means the legislative measures of the European Council for the introduction of, changeover to or operation of a single or unified European currency.

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

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Borrower, any other Credit Party or any of their respective Subsidiaries resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“ERISA” means the Employee Retirement Income Security Act of 1974.

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

“ERISA Event” means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by the Borrower or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by the Borrower or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate, the treatment of a Plan amendment as a termination under Sections 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (e) an event or condition that would reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; or (f) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Borrower or any ERISA Affiliate.

“Euro” and “€” mean the lawful currency of the Participating Member States introduced in accordance with the EMU Legislation.

“Eurodollar Rate” means, with respect to any Borrowing of Eurodollar Rate Loans for any Interest Period, the rate per annum determined by the Administrative Agent to be the arithmetic mean of the offered rates for deposits in the relevant Approved Currency with a term comparable to such Interest Period that appears on the Telerate British Bankers Assoc. Interest Settlement Rates Page (as defined below) at approximately 11:00 a.m. (London time) on the second full Business Day preceding the first day of such Interest Period; provided, however, that (i) if no comparable term for an Interest Period is available, the Eurodollar Rate shall be determined using the weighted average of the offered rates for the two terms most nearly corresponding to such Interest Period and (ii) if there shall at any time no longer exist a Telerate British Bankers Assoc. Interest Settlement Rates Page, “Eurodollar Rate” shall mean, with respect to each day during each Interest Period pertaining to a Borrowing of Eurodollar Rate Loans comprising part of the same Borrowing, the rate per annum equal to the rate at which the Administrative Agent is offered deposits in the relevant Approved Currency at approximately 11:00 a.m. (London time) two Business Days prior to the first day of such Interest Period in the London interbank market for delivery on the first day of such Interest Period for the number of days comprised therein and in an amount comparable to its portion of the amount of such Borrowing to be outstanding during such Interest Period. “Telerate British Bankers Assoc. Interest Settlement Rates Page” shall mean the display designated as Reuters Screen LIBOR01 Page (or such other page as may replace such page on such service for the purpose of displaying the rates at which the relevant Approved Currency deposits are offered by leading banks in the London interbank deposit market).

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

“Event of Default” has the meaning provided in Section 9.01.

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“Excluded Sale and Leaseback Transaction” means any Sale and Leaseback Transaction with respect to Property owned by the Borrower or any Subsidiary to the extent such Property is acquired after the Funding Date, so long as such Sale and Leaseback Transaction is consummated within 180 days of the acquisition of such Property.

“Excluded Property” means (a) vehicles, (b) subject to Section 7.15(b), fee interests in real property with a fair market value of less than \$2.5 million, (c) subject to Section 7.15(b), leasehold real property with a fair market value of less than \$3.5 million, (d) those assets as to which the Administrative Agent shall reasonably determine in writing that the costs of obtaining such security interest are excessive in relation to the value of the security to be afforded thereby, (e) assets if the granting or perfecting of a security interest in such assets in favor of the Collateral Agent would violate any applicable Law, (f) any right, title or interest in any license, contract or agreement to the extent, but only to the extent, that a grant of a security interest therein to secure the Obligations would, under the terms of such license, contract or agreement, result in a breach of the terms of, or constitute a default under, or result in the abandonment, invalidation or unenforceability of, such license, contract or agreement (other than to the extent that any such term would be rendered ineffective pursuant to Section 9-406, 9-407, 9-408 or 9-409 of the New York UCC or any other applicable law (including, without limitation, Title 11 of the United States Code) or principles of equity), (g) any Capital Stock acquired after the Closing Date (other than Capital Stock in a Subsidiary issued or acquired after such Person became a Subsidiary) in accordance with this Credit Agreement if, and to the extent that, and for so long as (i) such Capital Stock constitutes less than 100% of all applicable Capital Stock of such person, and the Person or Persons holding the remainder of such Capital Stock are not Affiliates of the Borrower, (ii) doing so would violate applicable law or a contractual obligation binding on such Capital Stock and (iii) with respect to such contractual obligations (other than contractual obligations in connection with a joint venture agreement), such obligation existed at the time of the acquisition of such Capital Stock and was not created or made binding on such Capital Stock in contemplation of or in connection with the acquisition of such Subsidiary, (h) any Property purchased with the proceeds of purchase money Indebtedness or that is subject to a capital lease, in each case, existing or incurred pursuant to Sections 8.03(b) or (c) if the contract or other agreement in which the Indebtedness and/or Liens related thereto is granted (or the documentation providing for such capital lease obligation) prohibits or requires the consent of any Person other than a member of the Consolidated Group as a condition to the creation of any other security interest on such Property and (i) any Property that is to be transferred to IAC or one or more of its Subsidiaries (other than the Borrower or any of its Subsidiaries) pursuant to the Separation Agreement in connection with the Spin-Off.

“Excluded Taxes” means, with respect to the Administrative Agent, any Lender, any L/C Issuer or any other recipient of any payment to be made by or on account of any obligation of any Credit Party hereunder or under any other Credit Document, (a) Taxes imposed on or measured by its overall net income (however denominated) and

franchise Taxes imposed on it (in lieu of net income Taxes) by any jurisdiction (or any political subdivision thereof) as a result of such recipient being organized in or having its principal office or applicable Lending Office in such jurisdiction or as a result of any other present or former connection with such jurisdiction (other than any such connections arising solely from such recipient having executed, delivered, or become a party to, performed its obligations or received payments under, received or perfected a security interest under, engaged in any other transaction specifically contemplated by, or enforced,

any Credit Documents), (b) any branch profits taxes imposed under Section 884(a) of the Internal Revenue Code or any similar tax imposed by any other jurisdiction described in clause (a) and (c) in the case of a recipient (other than an assignee pursuant to a request by the Borrower under Section 11.13), any U.S. federal withholding Tax that (i) is imposed on amounts payable to such recipient pursuant to Laws in effect at the time such recipient becomes a party hereto (or designates a new Lending Office), except to the extent that such recipient (or its assignor, if any) was entitled, at the time of designation of a new Lending Office (or assignment), to receive additional amounts from the Borrower with respect to such withholding Tax pursuant to Section 3.01(a), or (ii) is attributable to a recipient's failure to comply with Section 3.01(e).

“Existing Letters of Credit” means the letters of credit listed on Schedule 1.01A and any other letter of credit issued for the benefit of any Credit Party by either L/C Issuer from and after the date hereof until the Funding Date.

“FCC” means the Federal Communications Commission, and any successor entity performing similar functions.

“FCC Licenses” means all authorizations, licenses and permits issued by the FCC.

“Facility Fee” has the meaning provided in Section 2.09(a).

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

“Fee Letter” means the letter agreement, dated June 19, 2008, among the Borrower, Wachovia, Bank of America and MLBUSA and the other parties thereto.

“Final Maturity Date” means, at any time, the latest of the Revolving Termination Date, the Term Loan Termination Date and any final maturity date applicable to any outstanding Incremental Term Loans at such time.

“First-Tier Foreign Subsidiary” means any Foreign Subsidiary that is owned directly by a Domestic Credit Party.

“Flood Insurance Laws” means, collectively, (i) the National Flood Insurance Act of 1968 as now or hereafter in effect or any successor statute thereto, (ii) the Flood Disaster Protection Act of 1973 as now or hereafter in effect or any successor statute thereto, (iii) the National Flood Insurance Reform Act of 1994 as now or hereafter in effect or any successor statute thereto and (iv) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto.

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

“Foreign Subsidiary” means (i) any Subsidiary that is not incorporated, formed or organized under the laws of the United States of America, any State thereof, or the District of Columbia and (ii) any Subsidiary of a Subsidiary described in the foregoing clause (i).

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

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

“Funded Alternative Currency Participation” means, with respect to any Participating Alternative Currency Lender relating to Alternative Currency Loans funded by the Alternative Currency Fronting Lender, the aggregate amount paid by such Participating Alternative Currency Lender to the Alternative Currency Fronting Lender pursuant to Section 12.02 of this Credit Agreement in respect of such Participating Alternative Currency Lender's participation in the principal amount of Alternative Currency Loans funded by the Alternative Currency Fronting Lender. The Alternative Currency Fronting Lender's Funded Alternative Currency Participation in any Alternative Currency Loans funded by the Alternative Currency Fronting Lender shall be equal to the outstanding principal amount of such Alternative Currency Loans *minus* the total Funded Alternative Currency Participation of all other Lenders therein.

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

- (a) all obligations for borrowed money, whether current or long-term (including the Loan Obligations hereunder), and all obligations evidenced by bonds, debentures, notes, loan agreements or other similar instruments;
- (b) all purchase money indebtedness (including indebtedness and obligations in respect of conditional sales and title retention arrangements, except for customary conditional sales and title retention arrangements with suppliers that are entered into in the ordinary course of business) and all indebtedness and obligations in respect of the deferred purchase price of property or services (other than trade accounts payable incurred in the ordinary course of business);
- (c) all direct obligations under letters of credit (including standby and commercial), bankers' acceptances and similar instruments;
- (d) the Attributable Principal Amount of capital leases;
- (e) the amount of all obligations of such person with respect to the redemption, repayment or other repurchase of any Disqualified Capital Stock (excluding accrued dividends that have not increased the liquidation preference of such Disqualified Capital

Stock);

(f) Support Obligations in respect of Funded Debt of another Person; and

(g) Funded Debt of any partnership or joint venture or other similar entity in which such Person is a general partner or joint venturer, and has personal liability for such obligations, but only to the extent there is recourse to such Person for payment thereof.

For purposes hereof, the amount of Funded Debt shall be determined (i) based on the outstanding principal amount in the case of borrowed money indebtedness under clause (a) and purchase money indebtedness and the deferred purchase obligations under clause (b), (ii) based on the maximum face amount in the case of letter of credit obligations and the other obligations under clause (c), and (iii) based on the amount of Funded Debt that is the subject of the Support Obligations in the case of Support Obligations under clause (f). Unless otherwise specified, all references herein to the amount of a Letter of Credit at any time shall be deemed to mean the maximum face amount of such Letter of Credit after giving effect to all increases thereof contemplated by such Letter of Credit or the L/C Application therefor, whether or not such maximum face amount is in effect at such time.

“Funding Date” means the date when the conditions specified under Section 5.02 and 5.03 hereof are satisfied or waived and the initial Credit Extension hereunder is made.

“GAAP” means generally accepted accounting principles in effect in the United States as set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board from time to time applied on a consistent basis, subject to the provisions of Section 1.03. For the avoidance of doubt, for any period prior to the consummation of the Spin-Off, any financial definitions for the Borrower and its Subsidiaries shall be calculated on a combined basis consistent with the financial statements described in Section 6.05.

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

“Granting Lender” has the meaning provided in Section 11.06(h).

“Guaranteed Obligations” has the meaning provided in Section 4.01(a).

“Guarantors” means, (a) as of the Funding Date each Subsidiary of the Borrower listed on Schedule 1.01B and (b) after the Funding Date each other Person that becomes a Guarantor pursuant to the terms hereof, in each case together with its successors.

“Hazardous Materials” means all materials, substances or wastes characterized, classified or regulated as hazardous, toxic, pollutant, contaminant or radioactive under Environmental

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Laws, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes.

“Hedge Bank” has the meaning provided in the definition of Obligations.

“Honor Date” has the meaning provided in Section 2.03(c)(i).

“IAC” means IAC/InterActiveCorp, a Delaware corporation.

“IAC Dividend” means one or more cash dividends to be paid by the Borrower, directly or indirectly, to IAC in an approximate aggregate amount of \$400.0 million.

“Immaterial Subsidiary” means, at any date of determination, any Subsidiary of the Borrower designated as such in writing by the Borrower that had assets representing 1.0% or less of the Borrower’s Consolidated Total Assets on, and generated less than 1.0% of the Borrower’s and its Subsidiaries’ total revenues for the four quarters ending on, the last day of the most recent period at the end of which financial statements were required to be delivered pursuant to Section 7.01(a) or (b) or, if such date of determination is prior to the first delivery date under such Sections, on (or, in the case of revenues, for the four quarters ending on) the last day of the period of the most recent financial statements referred to in the first sentence of Section 6.05; provided that if all Subsidiaries that are individually “Immaterial Subsidiaries” have aggregate Consolidated Total Assets that would represent 2.5% or more of the Borrower’s Consolidated Total Assets on such last day or generated 2.5% or more of the Borrower’s and its Subsidiaries’ total revenues for such four fiscal quarters, then such number of Subsidiaries of the Borrower as are necessary shall become Material Subsidiaries so that less than 2.5% of the Borrower’s Consolidated Total Assets and less than 2.5% of the Borrower’s and its Subsidiaries’ total revenues are represented by Immaterial Subsidiaries as of such last day or for such four quarters, as the case may be (it being understood that any such determination with respect to revenues and assets shall be made on a Pro Forma Basis).

“Incremental Loan Facilities” has the meaning provided in Section 2.01(e).

“Incremental Revolving Commitments” has the meaning provided in Section 2.01(e).

“Incremental Term Loan” has the meaning provided in Section 2.01(e).

“Incremental Term Loan Joinder Agreement” means a lender joinder agreement, in a form reasonably satisfactory to the Administrative Agent, the Borrower and each Lender extending Incremental Term Loans, executed and delivered in accordance with the provisions of Section 2.01(g).

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

(a) all Funded Debt;

(b) net obligations under Swap Contracts;

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(c) Support Obligations in respect of Indebtedness of another Person; and

(d) Indebtedness of any partnership or joint venture or other similar entity in which such Person is a general partner or joint venturer, and has personal liability for such obligations, but only to the extent there is recourse to such Person for payment thereof.

For purposes hereof, the amount of Indebtedness shall be determined (i) based on Swap Termination Value in the case of net obligations under Swap Contracts under clause (b) and (ii) based on the outstanding principal amount of the Indebtedness that is the subject of the Support Obligations in the case of Support Obligations under clause (c).

“Indemnified Taxes” means Taxes other than Excluded Taxes.

“Indemnitee” has the meaning provided in Section 11.04(b).

“Information” has the meaning provided in Section 11.07.

“Interest Payment Date” means, (a) as to any Base Rate Loan (including Swingline Loans), the last Business Day of each March, June, September and December, the Revolving Termination Date and the date of the final principal amortization payment on the Term Loans and, in the case of any Swingline Loan, any other dates as may be mutually agreed upon by the Borrower and the Swingline Lender, and (b) as to any Eurodollar Rate Loan, the last Business Day of each Interest Period for such Loan, the date of repayment of principal of such Loan, the Revolving Termination Date and the date of the final principal amortization payment on the Term Loans, and in addition, where the applicable Interest Period exceeds three (3) months, the date every three (3) months after the beginning of such Interest Period. If an Interest Payment Date falls on a date that is not a Business Day, such Interest Payment Date shall be deemed to be the immediately succeeding Business Day.

“Interest Period” means, as to each Eurodollar Rate Loan, the period commencing on the date such Eurodollar Rate Loan is disbursed or converted to or continued as a Eurodollar Rate Loan and ending on the date one (1), two (2), three (3) or six (6) and, with prior written consent of all applicable Lenders, nine (9) or twelve (12) months thereafter, as selected by the Borrower in its Loan Notice or such other period that is twelve months or less requested by the Borrower and consented to by all the directly affected Lenders; provided that:

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

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

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(c) no Interest Period with respect to any Revolving Loan shall extend beyond the Revolving Termination Date; and

(d) no Interest Period with respect to the Term Loans shall extend beyond any principal amortization payment date for such Loans, except to the extent that the portion of such Loan comprised of Eurodollar Rate Loans that is expiring prior to the applicable principal amortization payment date plus the portion comprised of Base Rate Loans equals or exceeds the principal amortization payment then due.

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

“Investment” means, as to any Person, any direct or indirect acquisition or investment by such Person of or in the Capital Stock, Indebtedness or other equity or debt interest of another Person, whether by means of (a) the purchase or other acquisition of Capital Stock of another Person, (b) a loan, advance or capital contribution to, guaranty or assumption of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person and any arrangement pursuant to which the investor undertakes any Support Obligation with respect to Indebtedness of such other Person, or (c) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person that constitute a business unit. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

“Involuntary Disposition” means the receipt by any member of the Consolidated Group of any cash insurance proceeds or condemnation awards payable by reason of theft, loss, physical destruction or damage, loss of use, taking or similar event with respect to any of its Property.

“IP Rights” has the meaning provided in Section 6.17.

“IRS” means the United States Internal Revenue Service.

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

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

“Joinder Agreement” means a joinder agreement substantially in the form of Exhibit 7.12, executed and delivered in accordance with the provisions of Section 7.12.

“Landlord Access Agreement” shall mean a Landlord Access Agreement, substantially in the form of Exhibit 1.01C, or such other form as may reasonably be acceptable to the Administrative Agent.

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“Laws” means, collectively, all international, foreign, federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes, executive orders and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, licenses, authorizations and permits of, and agreements with, any Governmental Authority, including, without limitation, Environmental Laws.

“L/C Advance” means, with respect to each Lender, such Lender’s funding of its participation in any L/C Borrowing. All L/C Advances shall be denominated in Dollars.

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

“L/C Borrowing” means any extension of credit resulting from a drawing under any Letter of Credit that has not been reimbursed or refinanced as a Borrowing of Revolving Loans. Each L/C Borrowing shall be denominated in Dollars.

“L/C Commitment” means, with respect to any L/C Issuer, the commitment of such L/C Issuer to issue and to honor payment obligations under Letters of Credit, and, with respect to each Lender, the commitment of such Lender to purchase participation interests in L/C Obligations up to such Lender’s Revolving Commitment Percentage thereof.

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

“L/C Expiration Date” means the day that is seven (7) days prior to the Revolving Termination Date then in effect (or, if such day is not a Business Day, the immediately preceding Business Day).

“L/C Issuers” means Bank of America and Wachovia each in its capacity as an issuer of Letters of Credit hereunder, together with its respective successors in such capacity; provided that no other Lender shall be obligated to become an L/C Issuer hereunder.

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

“L/C Sublimit” has the meaning provided in Section 2.01(b).

“Lead Arrangers” means BAS and MLPFS.

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“Lender” means each of the Persons identified as a “Lender” on the signature pages hereto (and, as appropriate, includes the Swingline Lender) and each Person who joins as a Lender pursuant to the terms hereof, together with its successors and permitted assigns.

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

“Letter of Credit” means each standby and commercial letter of credit issued hereunder and shall include the Existing Letters of Credit.

“Letter of Credit Fee” has the meaning provided in Section 2.09(b)(i).

“License Subsidiary” means a Domestic Subsidiary of the Borrower which (i) is a Guarantor, (ii) is formed for the limited purpose of holding FCC Licenses used in the business of the Borrower and its Subsidiaries, (iii) does not have any material liabilities other than under the Credit Documents and (iv) is not engaged in any substantial business activities other than holding such FCC Licenses.

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

“Loan” means any Revolving Loan, Swingline Loan, Term Loan or Incremental Term Loan, and the Base Rate Loans and Eurodollar Rate Loans comprising such Loans.

“Loan Notice” means a notice of (a) a Borrowing of Loans (including Swingline Loans), (b) a conversion of Loans from one (1) Type to the other, or (c) a continuation of Eurodollar Rate Loans, which, if in writing, shall be substantially in the form of Exhibit 2.02.

“Loan Obligations” means the Revolving Obligations, the Term Loans and Incremental Term Loans.

“Major Disposition” means any Subject Disposition (or any series of related Subject Dispositions) or any Involuntary Disposition (or any series of related Involuntary Dispositions), in each case resulting in the receipt by a member of the Consolidated Group of Net Cash Proceeds in excess of \$15.0 million.

“Mandatory Cost Rate” has the meaning provided in Schedule 3.08.

“Material Adverse Effect” means (a) a material adverse change in, or a material adverse effect upon, the operations, business, assets, properties, liabilities (actual or contingent) or financial condition of the Borrower and its Subsidiaries, taken as a whole; (b) a material impairment of the rights and remedies of the Administrative Agent, Collateral Agent or any Lender under any material Credit Document; or (c) a material adverse effect upon the legality, validity, binding

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effect or the enforceability against any Credit Party of any material Credit Document to which it is a party.

“Material Subsidiary” means each Subsidiary of the Borrower other than an Immaterial Subsidiary.

“MLBUSA” means Merrill Lynch Bank USA, together with its successors.

“MLPFS” means Merrill Lynch, Pierce, Fenner & Smith Incorporated, together with its successors.

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

“Mortgaged Property” means (a) each real property identified as a Mortgaged Property on Schedule 1.01C and (b) each real property, if any, which shall be subject to a Mortgage delivered after the Closing Date pursuant to Section 7.16.

“Mortgages” means those mortgages, deeds of trust, security deeds or like instruments given by the Credit Parties, as grantors, to the Collateral Agent to secure the Obligations which shall be substantially in the form of Exhibit 1.01D or otherwise reasonably satisfactory to the Collateral Agent, and any other such instruments that may be given by any Person pursuant to the terms hereof, as such instruments may be amended and modified from time to time.

“Multiemployer Plan” means any employee pension benefit plan of the type described in Section 4001(a)(3) of ERISA, to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five (5) plan years, has made or been obligated to make contributions.



“Net Cash Proceeds” means the aggregate proceeds paid in cash or Cash Equivalents received by any member of the Consolidated Group in connection with any Subject Disposition, Involuntary Disposition or incurrence of Indebtedness or issuance of Capital Stock, net of (a) attorneys’ fees, accountants’ fees, investment banking fees, sales commissions, underwriting discounts, survey costs, title insurance premiums, and related search and recording charges, transfer taxes, deed or mortgage recording taxes, required debt payments and required payments of other obligations relating to the applicable asset to the extent such debt or obligations are secured by a Lien permitted hereunder (other than a Lien granted pursuant to a Credit Document) on such asset, other customary expenses and brokerage, consultant and other customary fees, in each case, actually incurred in connection therewith and directly attributable thereto, (b) Taxes paid or payable as a result thereof (estimated reasonably and in good faith by the Borrower and after taking into account any available tax credits or deductions and any tax sharing arrangements) and (c) solely with respect to a Subject Disposition, the amount of any reasonable reserve established in accordance with GAAP against any adjustment to the sale price or any liabilities (other than any taxes deducted pursuant to clause (b) above) (i) related to any of the Property Disposed of in such Subject Disposition and (ii) retained by the Borrower or any of the Subsidiaries including pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations (provided, however, the amount of any subsequent reduction of such reserve (other than in connection with a payment in respect of any such liability) shall be deemed to be Net Cash Proceeds from and after the date of such reduction).

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For purposes hereof, “Net Cash Proceeds” includes any cash or Cash Equivalents received upon the Disposition of any non-cash consideration received by any member of the Consolidated Group in any Subject Disposition or Involuntary Disposition.

“New York UCC” means the Uniform Commercial Code as from time to time in effect in the State of New York.

“Non-Bank Certificate” has the meaning provided in Section 3.01(e)(iii).

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

“Notes” means the Revolving Notes, the Swingline Note and the Term Notes.

“Obligations” means, without duplication, (a) all advances to, and debts, liabilities, obligations, covenants and duties of, any Credit Party arising under any Credit Document or otherwise with respect to any Loan or Letter of Credit, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Credit Party of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding, (b) all obligations under any Swap Contract between any Credit Party and any Lender or Affiliate of a Lender or any Person that was a Lender or Affiliate of a Lender at the time it entered into such Swap Contract, to the extent such Swap Contract is otherwise permitted hereunder (each, in such capacity, a “Hedge Bank”) and (c) all obligations under any Treasury Management Agreement between any Credit Party and any Lender or Affiliate of a Lender or any Person that was a Lender or Affiliate of a Lender at the time it entered into such Treasury Management Agreement (each, in such capacity, a “Treasury Management Bank”).

“OID” has the meaning provided in Section 2.01(g)(v).

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

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

“Outstanding Amount” means (a) with respect to Revolving Loans on any date, the Dollar Equivalent amount of the aggregate outstanding principal amount thereof after giving effect to any Borrowings and prepayments or repayments of Revolving Loans occurring on such date;

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(b) with respect to Swingline Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any Borrowings and prepayments or repayments of Swingline Loans occurring on such date; (c) with respect to any L/C Obligations on any date, the Dollar Equivalent amount of the aggregate outstanding amount of such L/C Obligations on such date after giving effect to any L/C Credit Extension occurring on such date and any other changes in the aggregate amount of the L/C Obligations as of such date, including as a result of any reimbursements by the Borrower of Unreimbursed Amounts and (d) with respect to the Term Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any prepayments or repayments of the Term Loans on such date.

“Overnight Rate” means, for any day, (a) with respect to any amount denominated in Dollars, the Federal Funds Rate, and (b) with respect to any amount denominated in an Alternative Currency, the rate of interest per annum at which overnight deposits in the applicable Alternative Currency, in an amount approximately equal to the amount with respect to which such rate is being determined, would be offered for such day by a branch or Affiliate of Bank of America in the applicable offshore interbank market for such currency to major banks in such interbank market.

“Participant” has the meaning provided in Section 11.06(d).

“Participant Register” has the meaning provided in Section 11.06(d).

“Participating Alternative Currency Lender” has the meaning set forth in Section 12.01.

“Participating Member State” means each state so described in any EMU Legislation.

“PBGC” means the Pension Benefit Guaranty Corporation.

“Pension Plan” means any “employee pension benefit plan” (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA and is sponsored or maintained by the Borrower or any ERISA Affiliate or to which the Borrower or any ERISA Affiliate contributes or has an obligation to contribute, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has made contributions at any time during the immediately preceding five (5) plan years.

“Permitted Acquisition” means any Acquisition; provided that (i) no Default or Event of Default shall have occurred and be continuing or exist immediately after giving effect to such Acquisition, (ii) after giving effect on a Pro Forma Basis to the Investment to be made, as of the last day of the most recently ended fiscal quarter at the end of which financial statements were required to have been delivered pursuant to Section 7.01(a) or (b) (or, prior to such first required delivery date for such financial

statements, as of the last day of the most recent period referred to in the first sentence of [Section 6.05](#)), the Borrower would be in compliance with [Section 8.10](#) (and if such Acquisition involves consideration greater than \$10.0 million, then the Borrower shall deliver a certificate of a Responsible Officer as to the satisfaction of the requirements in this [clause \(ii\)](#) and (iii) if such Acquisition involves consideration in excess of \$10.0 million (or if the total of all consideration for all Acquisitions since the Closing Date exceeds \$30.0 million), all assets acquired in such Acquisition shall be held by the Borrower or a Guarantor and all Persons acquired in such Acquisition shall become Guarantors; provided further that the Borrower

may elect to allocate consideration expended in such Acquisition for Property to be held by members of the Consolidated Group that are not the Borrower or Guarantors or Acquisitions of Subsidiaries that are not Guarantors to Investments made pursuant to [Section 8.02\(k\)](#), or to the extent the consideration comes from a Foreign Subsidiary, [Section 8.02\(g\)](#), so long as capacity to make such Investments pursuant to the applicable Section is available at the time of such allocation (and any consideration so allocated shall reduce capacity for Investments pursuant to such Sections to the extent that capacity for such Investments are limited by such Sections), and to the extent such consideration is in fact so allocated to one of such Sections in accordance with the foregoing requirements, such consideration shall not count toward the \$10.0 million and \$30.0 million limitations set forth in this [clause \(iii\)](#).

“[Permitted Business](#)” means the businesses of the Borrower and its Subsidiaries conducted on the Closing Date and any business reasonably related, ancillary or complementary thereto and any reasonable extension thereof.

“[Permitted Holders](#)” means each of (a) Barry Diller and (b) Liberty Media Corporation, and, in each case, such Person’s Affiliates and any group with respect to which any such Persons (including Affiliates) collectively exercise a majority of the voting power. Prior to the Spin-Off, IAC and its Subsidiaries will also be deemed to be Permitted Holders.

“[Permitted Liens](#)” means Liens permitted pursuant to [Section 8.01](#).

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

“[Plan](#)” means any “employee benefit plan” (as such term is defined in Section 3(3) of ERISA) established by the Borrower or, with respect to any such plan that is subject to Section 412 of the Internal Revenue Code or Title IV of ERISA, any ERISA Affiliate.

“[Platform](#)” has the meaning provided in [Section 7.02](#).

“[Pledge Agreement](#)” means the pledge agreement substantially in the form of [Exhibit 1.01A](#) (it being understood that the pledgors party thereto and schedules thereto shall be reasonably satisfactory to the Administrative Agent), given by the Credit Parties, as pledgors, to the Collateral Agent to secure the Obligations, and any other pledge agreements that may be given by any Person pursuant to the terms hereof, in each case as the same may be amended and modified from time to time.

“[Pro Forma Basis](#)” means, with respect to any Subject Disposition, Specified Disposition, Acquisition, Incremental Loan Facilities or the Transactions, for purposes of determining the applicable pricing level under the definition of “Applicable Percentage” and determining compliance with the financial covenants and conditions and the requirements of the definition of “Immaterial Subsidiary” hereunder, that such Subject Disposition, Specified Disposition, Acquisition, Incremental Loan Facilities or the Transactions shall be deemed to have occurred as of the first day of the period of four (4) consecutive fiscal quarters ending as of the end of the most recent fiscal quarter for which annual or quarterly financial statements shall have been delivered in accordance with the provisions hereof, after giving effect to any Pro Forma Cost Savings. Further, for purposes of making calculations on a “Pro Forma Basis” hereunder, (a) in the case of

any Subject Disposition or Specified Disposition, (i) income statement items (whether positive or negative) attributable to the property, entities or business units that are the subject of such Subject Disposition or Specified Disposition shall be excluded to the extent relating to any period prior to the date thereof and (ii) Indebtedness paid or retired in connection with such Subject Disposition or Specified Disposition shall be deemed to have been paid and retired as of the first day of the applicable period; and (b) in the case of any Acquisition, (i) income statement items (whether positive or negative) attributable to the property, entities or business units that are the subject thereof shall be included to the extent relating to any period prior to the date thereof and (ii) Indebtedness incurred in connection with such Acquisition shall be deemed to have been incurred as of the first day of the applicable period (and interest expense shall be imputed for the applicable period assuming prevailing interest rates hereunder).

“[Pro Forma Cost Savings](#)” means, with respect to any period, the reduction in net costs and related adjustments that (i) were directly attributable to an Acquisition, Subject Disposition or Specified Disposition that occurred during the four-quarter reference period or subsequent to the four-quarter reference period and on or prior to the date of determination and calculated on a basis that is consistent with Regulation S-X under the Securities Laws, as amended and in effect and applied as of the date hereof, (ii) were actually implemented by the business that was the subject of any such Acquisition, Subject Disposition or Specified Disposition or actually implemented by the Borrower and its Subsidiaries in connection with such Acquisition, Subject Disposition or Specified Disposition, in each case, within 12 months after the date of the Acquisition, Subject Disposition or Specified Disposition and prior to the date of determination that are supportable and quantifiable by the underlying accounting records of such business or (iii) relate to (A) the business that is the subject of or (B) the business of the Borrower and its Subsidiaries arising from any such Acquisition, Subject Disposition or Specified Disposition and that the Borrower reasonably determines are probable based upon specifically identifiable actions to be taken within 12 months of the date of the Acquisition, Subject Disposition or Specified Disposition and, in each case, are described, as provided below, in a certificate from a Responsible Officer of the Borrower, as if all such reductions in costs had been effected as of the beginning of such period. Pro Forma Cost Savings described above shall be accompanied by a certificate from a Responsible Officer of the Borrower delivered to the Administrative Agent that outlines the specific actions taken or to be taken, the net cost savings achieved or to be achieved from each such action and that, in the case of [clause \(iii\)](#) above, such savings have been determined to be probable; provided that such net costs and related adjustments referred to in [clauses \(ii\)](#) and [\(iii\)](#) shall not exceed \$10.0 million in any period for which Consolidated EBITDA is calculated.

“[Pro Rata Share](#)” means, with respect to each Lender at any time a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of outstanding Term Loans (or, prior to the Funding Date, Term Loan Commitments) or Revolving Commitments, as applicable, of such Lender at such time and the denominator of which is the aggregate amount of Term Loans (or, prior to the Funding Date, Term Loan Commitments) or Revolving Commitments, as applicable, at such time; provided that if such Revolving Commitments have been terminated, then the Pro Rata Share of each applicable Lender shall be determined based on the Pro Rata Share of such Lender immediately prior to such termination and after giving effect to any subsequent assignments made pursuant to the terms hereof.

“[Property](#)” means an interest of any kind in any property or asset, whether real, personal or mixed, and whether tangible or intangible.

“[Qualified Capital Stock](#)” means any Capital Stock of the Borrower other than Disqualified Capital Stock.

“Register” has the meaning provided in Section 11.06(c).

“Registered Public Accounting Firm” has the meaning provided in the Securities Laws and shall be independent of the Borrower as prescribed by the Securities Laws.

“Regulation D” means Regulation D of the Board of Governors of the Federal Reserve System of the United States as from time to time in effect and all official rulings and interpretations thereunder or thereof.

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

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

“Request for Credit Extension” means (a) with respect to a Borrowing of Loans (including Swingline Loans) a Loan Notice and (b) with respect to an L/C Credit Extension, a L/C Application.

“Required Lenders” means, as of any date of determination, Lenders having more than fifty percent (50%) of the sum of (i) the Term Loan Commitments (or, from and after the initial borrowings hereunder, the Term Loans) and (ii) the Aggregate Revolving Commitments (or, if the Revolving Commitments shall have expired or been terminated, the Revolving Obligations (including, in each case, the aggregate amount of each Lender’s risk participation and funded participation in L/C Obligations and Swingline Loans)); provided that the Commitments of, and the portion of the Loan Obligations held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders.

“Required Revolving Lenders” means, as of any date of determination, Lenders having more than fifty percent (50%) of the Aggregate Revolving Commitments or, if the Revolving Commitments shall have expired or been terminated, Lenders holding more than fifty percent (50%) of the aggregate principal amount of Revolving Obligations (including, in each case, the aggregate principal amount of each Lender’s risk participation and funded participation in L/C Obligations and Swingline Loans); provided that the Revolving Commitment of, and the portion of Revolving Obligations held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Revolving Lenders.

“Required Term Lenders” means, as of any date of determination, Lenders holding more than fifty percent (50%) of the aggregate principal amount of Term Loan Commitments (or, from and after the initial borrowings hereunder, the Term Loans); provided that the Term Loan

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Commitments held or deemed held by any Defaulting Lender shall be excluded for purposes of making a determination of Required Term Lenders.

“Responsible Officer” means the chief executive officer, chief operating officer, the president, any executive vice president, the chief financial officer, the chief accounting officer, the treasurer, any assistant treasurer, any vice president, any senior vice president, the secretary or the general counsel of a Credit Party, any manager of a Credit Party that is a limited liability company or the general partner of a Credit Party that is a limited partnership. Any document delivered hereunder that is signed by a Responsible Officer of a Credit Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Credit Party, and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Credit Party.

“Restricted Payment” means (i) any dividend or other distribution (whether in cash, securities or other property) with respect to any Capital Stock of any member of the Consolidated Group, (ii) any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Capital Stock or of any option, warrant or other right to acquire any such Capital Stock or (iii) any payment or prepayment of principal on or redemption, repurchase or acquisition for value of, any (x) Indebtedness of any member of the Consolidated Group that is not secured by a Lien or (y) Subordinated Debt of any member of the Consolidated Group, except in each case, any scheduled payment of principal.

“Revaluation Date” means, with respect to (x) any Letter of Credit, each of the following: (i) each date of issuance of a Letter of Credit denominated in an Alternative Currency, (ii) each date of an amendment of any such Letter of Credit having the effect of increasing the amount thereof (solely with respect to the increased amount), (iii) each date of any payment by any L/C Issuer under any Letter of Credit denominated in an Alternative Currency, and (iv) such additional dates as the Administrative Agent or the applicable L/C Issuer shall determine or the Required Lenders shall require and (y) any Revolving Loan, each of the following: (i) each date of Borrowing of a Revolving Loan denominated in an Alternative Currency, (ii) each date of any payment by any Revolving Lender under any Revolving Loan denominated in an Alternative Currency, and (iii) such additional dates as the Administrative Agent or the Required Revolving Lenders shall require.

“Revolving Committed Amount” means, for each Revolving Lender, the amount of such Lender’s Revolving Commitment. The Dollar Equivalent of the initial Revolving Committed Amounts are set forth in Schedule 2.01.

“Revolving Commitment” means, for each Revolving Lender, the commitment of such Lender to make Revolving Loans (and to share in Revolving Obligations) hereunder.

“Revolving Commitment Percentage” means, for each Revolving Lender, a fraction (expressed as a percentage carried to the ninth decimal place), the numerator of which is such Revolving Lender’s Revolving Committed Amount and the denominator of which is the Aggregate Revolving Committed Amount. The initial Revolving Commitment Percentages are set forth in Schedule 2.01.

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“Revolving Lender Joinder Agreement” means a joinder agreement, in a form to be agreed among the Administrative Agent, the Borrower and each Lender with an Incremental Revolving Commitment, executed and delivered in accordance with the provisions of Section 2.01(f).

“Revolving Lenders” means those Lenders with Revolving Commitments, together with their successors and permitted assigns. The initial Revolving Lenders are identified on the signature pages hereto and are set forth in Schedule 2.01.

“Revolving Loan” has the meaning provided in Section 2.01(a).

“Revolving Notes” means the promissory notes, if any, given to evidence the Revolving Loans, as amended, restated, modified, supplemented, extended, renewed or replaced. A form of Revolving Note is attached as Exhibit 2.13-1.

“Revolving Obligations” means the Revolving Loans, the L/C Obligations and the Swingline Loans.

“Revolving Termination Date” means the fifth anniversary of the Closing Date.

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

“Sale and Leaseback Transaction” means, with respect to the Borrower or any Subsidiary, any arrangement, directly or indirectly, with any Person (other than a Credit Party) whereby the Borrower or such Subsidiary shall sell or transfer any property, real or personal, used or useful in its business, whether now owned or hereafter acquired, and thereafter rent or lease such property or other property that it intends to use for substantially the same purpose or purposes as the property being sold or transferred.

“Same Day Funds” means (a) with respect to disbursements and payments in Dollars, immediately available funds, and (b) with respect to disbursements and payments in an Alternative Currency, same day or other funds as may be determined by the Administrative Agent or the applicable L/C Issuer, as applicable, to be customary in the place of disbursement or payment for the settlement of international banking transactions in the relevant Alternative Currency.

“Sarbanes-Oxley” means the Sarbanes-Oxley Act of 2002.

“Scheduled Matter” has the meaning provided in Section 5.01(c)(ii).

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

“Securities Laws” means the Securities Act of 1933, the Securities Exchange Act of 1934, Sarbanes-Oxley and the applicable accounting and auditing principles, rules, standards and practices promulgated, approved or incorporated by the SEC or the Public Company Accounting Oversight Board, as each of the foregoing may be amended and in effect on any applicable date hereunder.

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“Security Agreement” means the security agreement substantially in the form of Exhibit 1.01B, (it being understood that the grantors party thereto and schedules thereto shall be reasonably satisfactory to the Administrative Agent), given by Credit Parties, as grantors, to the Collateral Agent to secure the Obligations, and any other security agreements that may be given by any Person pursuant to the terms hereof, in each case as the same may be amended and modified from time to time.

“Senior Notes” means the Borrower’s 11.25% Senior Notes due 2016 in an aggregate principal amount of \$240.0 million and any exchange notes issued in exchange therefor pursuant to the registration rights agreement executed in connection with the issuance thereof.

“Separation Agreement” means the Separation Agreement to be dated on or prior to Spin-Off Date among the Borrower, Interval Leisure Group, Inc., Ticketmaster, Tree.com and IAC, together with all schedules, annexes, exhibits and other attachments thereto.

“Significant Subsidiary” means (1) any Subsidiary that satisfies the criteria for a “significant subsidiary” as defined in Article 1, Rule 1-02 of Regulation S-X under the Securities Laws, as such Regulation is in effect on the Closing Date (with the references to 10% in such Rule being deemed to be 5.0% for the purposes of this definition), and (2) any Subsidiary that, when aggregated with all other Subsidiaries that are not otherwise Significant Subsidiaries and as to which any event described in Section 9.01(f) or (h) has occurred and is continuing, would constitute a Significant Subsidiary under clause (1) of this definition.

“Solvent” means, with respect to any Person, as of any date of determination, (a) the Fair Value and Present Fair Saleable Value of the aggregate assets of such Person exceeds the value of its Liabilities; (b) such Person will not have, as of such date, an unreasonably small amount of capital with which to conduct its business; (c) such Person will be able to pay its Liabilities as they mature or become absolute; and (d) the Fair Value and Present Fair Saleable Value of the aggregate assets of such Person exceeds the value of its Liabilities by an amount that is not less than the capital of such Subject Entity (as determined pursuant to Section 154 of the Delaware General Corporate Law). The term “Solvency” shall have an equivalent meaning. For the purposes of this definition, “Fair Value” means the aggregate amount at which the assets of the applicable entity (including goodwill) would change hands between a willing buyer and a willing seller, within a commercially reasonable amount of time, each having reasonable knowledge of the relevant facts, neither being under any compulsion to act and with equity to both; “Present Fair Saleable Value” means the aggregate amount of net consideration (giving effect to reasonable and customary costs of sale or taxes) that could be expected to be realized if the aggregate assets of the applicable entity are sold with reasonable promptness in an arm’s length transaction under present conditions for the sale of assets of comparable business enterprises; and “Liabilities” means all debts and other liabilities of the applicable entity, whether secured, unsecured, fixed, contingent, accrued or not yet accrued.

“SPC” has the meaning provided in Section 11.06(h).

“Specified Disposition” means any Disposition referred to in clause (a) of the definition of Subject Disposition, to the extent a material amount of Property is disposed of in such Disposition.

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“Specified Intercompany Transfers” means a Disposition of Property by a Credit Party to a member of the Consolidated Group that is not a Credit Party.

“Spin-Off” means the spin-off of the Borrower from IAC pursuant to the Separation Agreement, such that from and after such spin-off, the Borrower will exist as a separate publicly traded entity.

“Spin-Off Date” means the date upon which the Spin-Off is consummated.

“Spot Rate” for a currency means the rate determined by the Administrative Agent or any L/C Issuer, as applicable, to be the rate quoted by the Person acting in such capacity as the spot rate for the purchase by such Person of such currency with another currency through its principal foreign exchange trading office at approximately 11:00 a.m. (London time) on the date two (2) Business Days prior to the date as of which the foreign exchange computation is made; provided that the Administrative Agent or any L/C Issuer may obtain such spot rate from another financial institution designated by the Administrative Agent or such L/C Issuer if the Person acting in such capacity does not have as of the date of determination a spot buying rate for any such currency; and provided further that any L/C Issuer may use such spot rate quoted on the date as of which the foreign exchange computation is made in the case of any Letter of Credit denominated in an Alternative Currency.

“Standby Letter of Credit Fee” has the meaning provided in Section 2.09(b).

“Statutory Reserves” means for any Interest Period for any Borrowing of Eurodollar Rate Loans in Dollars, the average maximum rate at which reserves (including any marginal, supplemental or emergency reserves) are required to be maintained during such Interest Period under Regulation D by member banks of the United States Federal Reserve System in New York City with deposits exceeding one billion Dollars against “Eurocurrency liabilities” (as such term is used in Regulation D). Borrowings of Eurodollar Rate Loans shall be deemed to constitute Eurodollar liabilities and to be subject to such reserve requirements without benefit of or credit for proration, exceptions or offsets which may be available from time to time to any Lender under Regulation D.

“Sterling” and “£” mean the lawful currency of the United Kingdom.

“Subject Disposition” means any Disposition other than (a) Dispositions of damaged, worn-out or obsolete Property that, in the Borrower’s reasonable judgment, is no longer used or useful in the business of the Borrower or its Subsidiaries; (b) Dispositions of inventory, services or other property in the ordinary course of business; (c) Dispositions of Property to the extent that (i) such Property is exchanged for credit against the purchase price of similar replacement Property or (ii) the proceeds of such Disposition are reasonably promptly applied to the purchase price of such replacement equipment or property; (d) licenses, sublicenses, leases and subleases not interfering in any material respect with the business of any member of the Consolidated Group; (e) sales or discounts of accounts receivable in connection with the compromise or collection thereof in the ordinary course of business; (f) any Disposition at any time by (i) a Credit Party to any other Credit Party, (ii) a Subsidiary that is not a Credit Party to a Credit Party or (iii) a Subsidiary that is not a Credit Party to another Subsidiary that is not a Credit Party; (g)

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Specified Intercompany Transfers; (h) the sale of Cash Equivalents; (i) an Excluded Sale and Leaseback Transaction; (j) Dispositions pursuant to a transaction contemplated by Section 8.12; (k) Restricted Payments permitted by Section 8.06; (l) mergers and consolidations permitted by Section 8.04; and (m) the granting of Liens permitted pursuant to Section 8.01.

“Subordinated Debt” means (x) as to the Borrower, any Funded Debt of the Borrower that is expressly subordinated in right of payment to the prior payment of any of the Loan Obligations of the Borrower and (y) as to any Guarantor, any Funded Debt of such Guarantor that is expressly subordinated in right of payment to the prior payment of any of the Loan Obligations of such Guarantor.

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

“Support Obligations” means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness payable by another Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness of the payment or performance of such Indebtedness, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien). The amount of any Support Obligations shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Support Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith.

“Survey” means a survey of any Mortgaged Property (and all improvements thereon) which is (a) a recent ALTA survey by registered engineers or land surveyors and sufficient for the Title Company to remove all standard survey exceptions from the title insurance policy (or commitment) relating to such Mortgaged Property and issue the endorsements of the type required by Section 5.02(d)(iii) or (b) otherwise reasonably acceptable to the Collateral Agent.

“Swap Contract” means any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity

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contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement.

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

“Swingline Borrowing” means a borrowing of a Swingline Loan pursuant to Section 2.01(c).

“Swingline Commitment” means, with respect to the Swingline Lender, the commitment of the Swingline Lender to make Swingline Loans, and with respect to each Lender, the commitment of such Lender to purchase participation interests in Swingline Loans.

“Swingline Lender” means Bank of America in its capacity as such, together with any successor in such capacity.

“Swingline Loan” has the meaning provided in Section 2.01(c).

“Swingline Note” means the promissory note given to evidence the Swingline Loans, as amended, restated, modified, supplemented, extended, renewed or replaced. A form of Swingline Note is attached as Exhibit 2.13-2.

“Swingline Sublimit” has the meaning provided in Section 2.01(c).

“Synthetic Lease” means any synthetic lease, tax retention operating lease, off-balance sheet loan or similar off-balance sheet financing arrangement that is considered borrowed money indebtedness for tax purposes but is classified as an operating lease under GAAP.

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

“Term Lenders” means, prior to the funding of the initial Term Loans on the Funding Date, those Lenders with Term Loan Commitments, and after funding of the Term Loans, those Lenders holding a portion of the Term Loans, together with their successors and permitted assigns. The initial Term Lenders are set forth on Schedule 2.01.

“Term Loan Committed Amount” means, for each Term Lender, the amount of such Lender’s Term Loan Commitment. The initial Term Loan Committed Amounts are set forth on Schedule 2.01.

“Term Loan Commitment” means, for each Term Lender, the commitment of such Lender to make a portion of the Term Loan hereunder; provided that, at any time after funding of the Term Loans, determinations of “Required Lenders” and “Required Term Lenders” shall be based on the outstanding principal amount of the Term Loan.

“Term Loan Commitment Percentage” means, for each Term Lender, a fraction (expressed as a percentage carried to the ninth decimal place), the numerator of which is the principal amount of such Lender’s Term Loan and the denominator of which is the Outstanding Amount of the Term Loans. The initial Term Loan Commitment Percentages are set forth on Schedule 2.01.

“Term Loan Termination Date” means the fifth anniversary of the Closing Date.

“Term Loans” has the meaning provided in Section 2.01(d).

“Term Note” means the promissory notes substantially in the form of Exhibit 2.13-4, if any, given to evidence the Term Loans, as amended, restated, modified, supplemented, extended, renewed or replaced.

“Title Company” means any title insurance company as shall be retained by the Borrower and reasonably acceptable to the Administrative Agent.

“Title Policy” shall have the meaning assigned to such term in Section 5.02(d)(ii).

“Transactions” means the borrowing of the Term Loans on the Funding Date, the consummation of the Spin-Off, the issuance of the Senior Notes, the payment of the IAC Dividend, the distribution by the Borrower of intercompany receivables, directly or indirectly, to IAC or any of its subsidiaries, the other transactions contemplated by Section 8.12 and the payment of fees and expenses in connection with the foregoing.

“Treasury Management Bank” has the meaning provided in the definition of Obligations.

“Treasury Management Agreement” means any agreement governing the provision of treasury or cash management services, including deposit accounts, funds transfer, automated clearinghouse, zero balance accounts, returned check concentration, controlled disbursement, lockbox, purchase cards, account reconciliation and reporting and trade finance services.

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

“UCC” means the Uniform Commercial Code in effect in any applicable jurisdiction from time to time.

“United States” or “U.S.” means the United States of America.

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

“Wachovia” means Wachovia Bank, National Association.

“Weighted Average Life to Maturity” means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (i) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payment of principal, including payment at final maturity, in respect thereof, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment by (ii) the then outstanding principal amount of such Indebtedness.

“Wholly Owned Subsidiary” means, with respect to any direct or indirect Subsidiary of any Person, that one hundred percent (100%) of the Capital Stock with ordinary voting power issued by such Subsidiary (other than directors’ qualifying shares and investments by foreign nationals mandated by applicable Law) is beneficially owned, directly or indirectly, by such Person.

## **1.02 Interpretative Provisions.**

With reference to this Credit Agreement and each other Credit Document, unless otherwise specified herein or in such other Credit Document:

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

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

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

### **1.03 Accounting Terms and Provisions.**

(a) All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Credit Agreement shall be prepared in conformity with, GAAP applied on a consistent basis in a manner consistent with that used in preparing the audited financial statements referenced in Section 6.05, except as otherwise specifically prescribed herein.

(b) Notwithstanding any provision herein to the contrary, determinations of (i) the Consolidated Total Leverage Ratio for purposes of determining the applicable pricing level under the definition of "Applicable Percentage," (ii) compliance with covenants and conditions and (iii) revenues for determining Material Subsidiaries and Immaterial Subsidiaries shall be made on a Pro Forma Basis. To the extent compliance with the covenants in Section 8.10 is being calculated as of a date that is prior to the first test date under Section 8.10 in order to determine the permissibility of a transaction, the levels for the covenants as of the first test date under Section 8.10 shall apply for such purpose.

(c) If at any time any change in GAAP or in the consistent application thereof would affect the computation of any financial ratio or requirement set forth in any Credit Document, the Borrower may, after giving written notice thereof to the Administrative Agent, determine all such computations on such a basis; provided that if any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Credit Document, and either the Borrower or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided further that, until so amended (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Borrower shall provide to the Administrative Agent and the Lenders financial statements and other documents required under this Credit Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

(d) Consolidation of Variable Interest Entities. All references herein to consolidated financial statements of the Borrower and its Subsidiaries or to the determination of any amount for the Borrower and its Subsidiaries on a consolidated basis or any similar reference shall, in each case, be deemed to include each variable interest entity that the Borrower is required to consolidate pursuant to FASB Interpretation No. 46 - Consolidation of Variable Interest Entities:

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an interpretation of ARB No. 51 (January 2003) as if such variable interest entity were a Subsidiary as defined herein.

### **1.04 Rounding.**

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

### **1.05 Times of Day.**

Unless otherwise provided, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

### **1.06 Exchange Rates; Currency Equivalents.**

(a) The Administrative Agent or the applicable L/C Issuer, as applicable, shall determine the Spot Rates as of each Revaluation Date to be used for calculating Dollar Equivalent amounts of L/C Credit Extensions and Outstanding Amounts denominated in Alternative Currencies. Such Spot Rates shall become effective as of such Revaluation Date and shall be the Spot Rates employed in converting any amounts between the applicable currencies until the next Revaluation Date to occur. Except for purposes of financial statements delivered hereunder or calculating covenants hereunder or except as otherwise provided herein, the applicable amount of any currency (other than Dollars) for purposes of the Credit Documents shall be such Dollar Equivalent amount as so determined by the Administrative Agent or such L/C Issuer, as applicable.

(b) Wherever in this Credit Agreement in connection with the issuance, amendment or extension of a Letter of Credit, an amount, such as a required minimum or multiple amount, is expressed in Dollars, but such Letter of Credit is denominated in an Alternative Currency, such amount shall be the relevant Alternative Currency Equivalent of such Dollar amount (rounded to the nearest unit of such Alternative Currency, with 0.5 of a unit being rounded upward), as determined by the Administrative Agent or the applicable L/C Issuer, as the case may be.

### **1.07 Change of Currency.**

(a) Each obligation of the Borrower to make a payment denominated in the national currency unit of any member state of the European Union that adopts the Euro as its lawful currency after the date hereof shall be redenominated into Euro at the time of such adoption (in accordance with the EMU Legislation). If, in relation to the currency of any such member state, the basis of accrual of interest expressed in this Credit Agreement in respect of that currency shall be inconsistent with any convention or practice in the London interbank market for the basis of accrual of interest in respect of the Euro, such expressed basis shall be replaced by such convention or practice with effect from the date on which such member state adopts the Euro as its lawful currency; provided that if any Borrowing in the currency of such member state is outstanding

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immediately prior to such date, such replacement shall take effect, with respect to such Borrowing, at the end of the then current Interest Period.

(b) Each provision of this Credit Agreement shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify to be appropriate to reflect the adoption of the Euro by any member state of the European Union and any relevant market conventions or practices relating to the Euro.

(c) Each provision of this Credit Agreement also shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify to be appropriate to reflect a change in currency of any other country and any relevant market conventions or practices relating to the change in currency.

### **1.08 Letter of Credit Amounts.**

Unless otherwise provided, all references herein to the amount of a Letter of Credit at any time shall be deemed to mean the Dollar Equivalent of the maximum face amount available to be drawn of such Letter of Credit after giving effect to all increases thereof contemplated by such Letter of Credit or the Issuer Documents related thereto, whether or not such maximum face amount is in effect at such time.

## COMMITMENTS AND CREDIT EXTENSIONS

### 2.01 Commitments.

Subject to the terms and conditions set forth herein:

(a) Revolving Loans.

Following the Funding Date, each Revolving Lender severally agrees to make revolving credit loans (the "Revolving Loans") in one or more Approved Currencies to the Borrower from time to time on any Business Day prior to the Revolving Termination Date; provided that after giving effect to any such Revolving Loan, (x) with respect to the Revolving Lenders collectively, the Outstanding Amount of Revolving Obligations shall not exceed ONE HUNDRED FIFTY MILLION DOLLARS (\$150,000,000) (as such amount may be increased pursuant to Section 2.01(f) or decreased in accordance with the provisions hereof, the "Aggregate Revolving Committed Amount") (of which an amount not to exceed TWENTY FIVE MILLION DOLLARS (\$25,000,000) may be utilized for Revolving Loans in Alternative Currencies) and (y) with respect to each Revolving Lender individually, such Lender's Revolving Commitment Percentage of Revolving Loans shall not exceed its respective Revolving Committed Amount. Revolving Loans denominated in Dollars may consist of Base Rate Loans, Eurodollar Rate Loans or a combination thereof, as the Borrower may request. Revolving Loans denominated in an Alternative Currency must consist of Eurodollar Rate Loans. Revolving Loans may be repaid and reborrowed in accordance with

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the provisions hereof. Subject to, and to the extent provided in, Article XII, Revolving Loans denominated in an Alternative Currency that are required to be made by a Participating Alternative Currency Lender pursuant to this Section 2.01(a) shall instead be made by the Alternative Currency Fronting Lender and purchased and settled by such Participating Alternative Currency Lender in accordance with Article XII. Notwithstanding anything contained herein, no Revolving Loans may be used to fund the IAC Dividend, the Spin-Off, any transaction related to the Spin-Off or undertaken as contemplated by Section 8.12.

(b) Letters of Credit.

(i) Letters of Credit. On and after the Funding Date, (x) each L/C Issuer, in reliance upon the commitments of the Revolving Lenders set forth herein, severally agrees (A) to issue Letters of Credit denominated in Dollars or in one or more Alternative Currencies, for the account of the Borrower (or for the account of any member of the Consolidated Group, but in such case the Borrower will remain obligated to reimburse the L/C Issuer for any and all drawings under such Letter of Credit, and the Borrower acknowledges that the issuance of Letters of Credit for the account of members of the Consolidated Group inures to the benefit of the Borrower, and the Borrower acknowledges that the Borrower's business derives substantial benefits from the business of such members of the Consolidated Group) on any Business Day, (B) to amend or extend Letters of Credit previously issued hereunder, and (C) to honor drawings under Letters of Credit; and (y) Revolving Lenders severally agree to purchase from the L/C Issuers a participation interest in Letters of Credit issued hereunder in an amount equal to such Revolving Lender's Revolving Commitment Percentage thereof; provided that (A) the Outstanding Amount of L/C Obligations shall not exceed SEVENTY-FIVE MILLION DOLLARS (\$75,000,000) (as such amount may be decreased in accordance with the provisions hereof, the "L/C Sublimit"), (B) with regard to the Revolving Lenders collectively, the Outstanding Amount of Revolving Obligations shall not exceed the Aggregate Revolving Committed Amount and (C) with regard to each Revolving Lender individually, such Revolving Lender's Revolving Commitment Percentage of Revolving Obligations shall not exceed its respective Revolving Committed Amount. Subject to the terms and conditions hereof, the Borrower's ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrower may obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed. Notwithstanding anything contained herein, no Letters of Credit may be used to support the IAC Dividend, the Spin-Off, any transaction contemplated by the Spin-Off or contemplated by Section 8.12. All Existing Letters of Credit shall be deemed to have been issued pursuant hereto, and from and after the Funding Date shall be subject to and governed by the terms and conditions hereof.

(c) Swingline Loans. During the Commitment Period, the Swingline Lender agrees, in reliance upon the commitments of the other Lenders set forth herein, to make revolving credit loans (the "Swingline Loans") to the Borrower on any Business Day; provided that (i) the Outstanding Amount of Swingline Loans shall not exceed FIFTEEN

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MILLION DOLLARS (\$15,000,000) (as such amount may be decreased in accordance with the provisions hereof, the "Swingline Sublimit") and (ii) with respect to the Revolving Lenders collectively, the Outstanding Amount of Revolving Obligations shall not exceed the Aggregate Revolving Committed Amount. Swingline Loans shall be comprised solely of Base Rate Loans, and may be repaid and reborrowed in accordance with the provisions hereof. Immediately upon the making of a Swingline Loan, each Revolving Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Swingline Lender a participation interest in such Swingline Loan in an amount equal to such Lender's Revolving Commitment Percentage thereof. Notwithstanding anything contained herein, no Swingline Loans may be used to fund the IAC Dividend, the Spin-Off, any transaction related to the Spin-Off or contemplated by Section 8.12.

(d) Term Loan. Each of the Term Lenders severally agrees to make its portion of the term loans (in the amount of its respective Term Loan Committed Amount) to the Borrower on the Funding Date in a single advance in an aggregate principal amount of ONE HUNDRED FIFTY MILLION DOLLARS (\$150,000,000) (the "Term Loans"). The Term Loans may consist of Base Rate Loans, Eurodollar Rate Loans or a combination thereto, as the Borrower may request. Amounts repaid on the Term Loans may not be reborrowed.

(e) Incremental Loan Facilities. Any time after the Funding Date, the Borrower may, upon written notice to the Administrative Agent, establish additional credit facilities of the Borrower (collectively, the "Incremental Loan Facilities") by increasing the Aggregate Revolving Commitments hereunder as provided in Section 2.01(f) (the "Incremental Revolving Commitments"), or establishing new term loans hereunder as provided in Section 2.01(g) (the "Incremental Term Loans"); provided that:

(i) the aggregate principal amount of loans and commitments for all the Incremental Loan Facilities established after the Funding Date will not exceed \$75.0 million;

(ii) no Default or Event of Default shall have occurred and be continuing or shall result after giving effect to any such Incremental Loan Facility;

(iii) the conditions to the making of a Credit Extension under Section 5.03 shall be satisfied; and

(iv) the Borrower shall have delivered a certificate to the Administrative Agent demonstrating that, after giving effect on a Pro Forma Basis to the borrowings to be made pursuant to such Incremental Loan Facility, as of the last day of the most recently ended fiscal quarter at the end of which financial statements were required to have been delivered pursuant to Section 7.01(a) or (b) (or, prior to such first required delivery date for such financial statements, as of the last day of the most recent period referred to in the first sentence of Section 6.05), the Borrower would be in compliance with Section 8.10.



In connection with the establishment of any Incremental Loan Facility, (A) neither of the Lead Arrangers hereunder shall have any obligation to arrange for or assist in arranging for any Incremental Loan Facility, (B) any Incremental Loan Facility shall be subject to such conditions, including fee arrangements, as may be provided in connection therewith and (C) none of the Lenders shall have any obligation to provide commitments or loans for any Incremental Loan Facility.

(f) Establishment of Incremental Revolving Commitments. Subject to Section 2.01(e), the Borrower may establish Incremental Revolving Commitments by increasing the Aggregate Revolving Committed Amount hereunder, provided that:

- (i) any Person that is not a Revolving Lender that is proposed to be a Lender under any such increased Aggregate Revolving Committed Amount shall be reasonably acceptable to the Administrative Agent and any Person that is proposed to provide any such increased Aggregate Revolving Committed Amount (whether or not an existing Revolving Lender) shall be reasonably acceptable to each L/C Issuer;
- (ii) Persons providing commitments for the Incremental Revolving Commitments pursuant to this Section 2.01(f) will provide a Revolving Lender Joinder Agreement;
- (iii) increases in the Aggregate Revolving Committed Amount will be in a minimum principal amount of \$10.0 million and integral multiples of \$5.0 million in excess thereof;
- (iv) if any Revolving Loans are outstanding at the time of any such increase, either (x) the Borrower will prepay such Revolving Loans on the date of effectiveness of the Incremental Revolving Commitments (including payment of any break-funding amounts owing under Section 3.05) or (y) each Lender with an Incremental Revolving Commitment shall purchase at par interests in each Borrowing of the outstanding Revolving Loans under the applicable Revolving Facility such that immediately after giving effect to such purchases, each Borrowing thereunder shall be held by each Lender in accordance with its Pro Rata Share of such Revolving Facility (and, in connection therewith, the Borrower shall pay all amounts that would have been payable pursuant to Section 3.05 had the Revolving Loans so purchased been prepaid on such date).

Any Incremental Revolving Commitment established hereunder shall have terms identical to the Revolving Commitments existing on the Closing Date, it being understood that the Borrower and the Administrative Agent may make (without the consent of or notice to any other party) any amendment to reflect such increase in the Revolving Commitments.

(g) Establishment of Incremental Term Loans. Subject to Section 2.01(e), the Borrower may, at any time, establish additional term loan commitments, provided that:

- (i) any Person that is not a Lender or Eligible Assignee that is proposed to be a Lender shall be reasonably acceptable to the Administrative Agent;
- (ii) Persons providing commitments for the Incremental Term Loan pursuant to this Section 2.01(g) will provide an Incremental Term Loan Joinder Agreement;
- (iii) additional commitments established for the Incremental Term Loan will be in a minimum aggregate principal amount of \$15.0 million and integral multiples of \$5.0 million in excess thereof; provided that Incremental Term Loan Commitments shall not be established on more than three (3) separate occasions; and
- (iv) the final maturity date of any Incremental Term Loan shall be no earlier than the Term Loan Termination Date;
- (v) the Applicable Percentage (which for the purposes of this Section 2.01(g) being deemed to include any similar interest margin measure) for any proposed Incremental Term Loans shall be determined by Borrower and the applicable Lenders; provided that in the event that the Applicable Percentage for any proposed Incremental Term Loans is greater than the Applicable Percentage for the Term Loans (other than such Incremental Term Loans), then the Applicable Percentage for all Term Loans (other than such Incremental Term Loans) shall be increased to the extent necessary so that the Applicable Percentage for the Term Loans (other than such Incremental Term Loans) is equal to the Applicable Percentage for the proposed Incremental Term Loans; provided, further, that in determining the Applicable Percentage applicable to the Term Loans (other than such Incremental Term Loans) and the proposed Incremental Term Loans, original issue discount (“OID”) or upfront fees (other than underwriting fees paid only to Lenders under the Incremental Term Loans in their capacity as such) (which upfront fees, exclusive of the underwriting fees referred to above, shall be deemed to constitute like amounts of OID) payable to the applicable Lenders of the Term Loans (other than such Incremental Term Loans) or the proposed Incremental Term Loans in the primary syndication thereof shall be included (with OID being equated to interest based on an assumed four-year life to maturity);
- (vi) the Weighted Average Life to Maturity of any Incremental Term Loan shall not be shorter than the Term Loans (without giving effect to such Incremental Term Loans).

Any Incremental Term Loan established hereunder shall be on terms to be determined by the Borrower and the Lenders thereunder (and the Borrower and the Administrative Agent may, without the consent of any other Lender, enter into an amendment to this Credit Agreement to appropriately include the Incremental Term Loans hereunder including, without limitation, to provide that such Incremental Term Loans shall share in mandatory prepayments on the same basis as the Term Loans); provided that, to the extent that such terms and documentation are not consistent with the Term Loans (except to

the extent permitted by clause (iv), (v) or (vi) above), they shall be reasonably satisfactory to the Administrative Agent; provided further that if any covenant, term (except to the extent permitted by clause (iv), (v) or (vi) above), event of default or remedy in any Incremental Term Loans is more favorable to the lenders thereunder than the corresponding covenant, term, event of default or remedy in the existing Term Loans, or such Incremental Term Loans contain any covenant, term (except to the extent permitted by clause (iv), (v) or (vi) above), event of default or remedy that is not in the existing Credit Documents, the Credit Parties and the Administrative Agent and/or the Collateral Agent shall, without the consent of or notice to any other party, amend the documentation for such existing Credit Documents so that such covenant, term, event of default and/or remedy is applicable to all Loans and Commitments (or Term Loans and Term Loan Commitments, as applicable) hereunder and/or to incorporate any such covenant, event of default and/or remedy that is not in the existing Credit Documents.

## 2.02 Borrowings, Conversions and Continuations.

(a) Each Borrowing, each conversion of Loans from one Type to the other, and each continuation of Eurodollar Rate Loans shall be made upon the Borrower's irrevocable notice to the Administrative Agent, which may be given by telephone. Each such notice must be received by the Administrative Agent not later than 12:00 noon (New York time) (or, with respect to amounts denominated in Alternative Currency, 11:00 a.m. (London time)) (i) with respect to Eurodollar Rate Loans, three (3) Business Days (or, in the case of Revolving Loans denominated in Alternative Currency, four (4) Business Days) prior to the requested date of, or (ii) with respect to Base Rate Loans, on the requested date of, any Borrowing, conversion or continuation. Each telephonic notice by the Borrower pursuant to this Section 2.02(a) must be confirmed promptly by delivery to the Administrative Agent of a written Loan Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Except as provided in Sections 2.03(c) and 2.04(b), each Borrowing, conversion or continuation shall be in a principal amount of (i) with respect to Eurodollar Rate Loans (A) denominated in Dollars, \$1.0 million or a whole multiple of \$1.0 million in excess thereof, (B) denominated in Euros, €1.0 million or a whole multiple of €1.0 million in excess thereof, (C) denominated in Sterling, £1.0 million or a whole multiple of £1.0 million in excess thereof and (D) denominated in Canadian Dollars, C\$1.0 million or a whole multiple of C\$1.0 million or (ii) with respect to Base Rate Loans, \$500,000 or a whole multiple of \$100,000 in excess thereof. Each Loan Notice (whether telephonic or written) shall specify (i) whether the Borrower's request is with respect to Revolving Loans or the Term Loans, (ii) whether such request is for a Borrowing, conversion, or continuation, (iii) the requested date of such Borrowing, conversion or continuation (which shall be a Business Day), (iv) the principal amount of Loans to be borrowed, converted or continued, (v) the Type of Loans to be borrowed, converted or continued, (vi) if such Loans are Revolving Loans, the currency of such Loans (which shall be an Approved Currency) and (vii) if applicable, the duration of the Interest Period with respect thereto. If the Borrower fails to specify a Type of Loan in a Loan Notice or if the Borrower fails to give a timely notice requesting a conversion or continuation (other than with respect to Revolving Loans denominated in an Alternative Currency), then the applicable Loans shall be made as, or converted to, Base Rate Loans. Any automatic conversion to Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurodollar Rate Loans. If the Borrower requests a Borrowing of,

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conversion to, or continuation of Eurodollar Rate Loans in any Loan Notice, but fails to specify an Interest Period, the Interest Period will be deemed to be one (1) month.

(b) Following receipt of a Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Pro Rata Share of the applicable Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans described in the preceding subsection. In the case of a Borrowing denominated in Dollars, each Lender shall make the amount of its Loan available to the Administrative Agent in Dollars in immediately available funds at the Administrative Agent's Office not later than 2:00 p.m. (New York time) on the Business Day specified in the applicable Loan Notice. In the case of a Borrowing denominated in an Alternative Currency, each Lender shall make the amount of its Loan available to the Administrative Agent in the applicable Alternative Currency in immediately available funds at the Administrative Agent's Office not later than 1:00 p.m. (London time) on the Business Day specified in the applicable Loan Notice; provided that if, prior to the time any Lender is required to fund its participation in a Loan denominated in an Alternative Currency, such Lender notifies the Administrative Agent in writing that it is unable to make such funds available in such Alternative Currency, then such Lender shall so make the Dollar Equivalent of such funds available to the Administrative Agent for the account of the Borrower in Dollars on or prior to 2:00 p.m. (New York time) two Business Days prior to the date of such borrowing (it being understood and agreed that upon receipt of such funds the Administrative Agent shall so convert such amount into the Alternative Currency Equivalent of such amount). Upon satisfaction of the applicable conditions set forth in Section 5.03 (and, if such Borrowing is the initial Credit Extension, Section 5.02), the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent either by (i) crediting the account of the Borrower on the books of Bank of America with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to the Administrative Agent by the Borrower; provided, however, that if on the date of such Borrowing there are L/C Borrowings outstanding, then the proceeds of such Borrowing shall be applied, first, to the payment in full of any such L/C Borrowings, and second, to the Borrower as provided above.

(c) Except as otherwise provided herein, without the consent of the Required Lenders, a Eurodollar Rate Loan may be continued or converted only on the last day of an Interest Period for such Eurodollar Rate Loan. During the existence of a Default or Event of Default, at the request of the Required Lenders or the Administrative Agent, (i) no Loan denominated in Dollars may be requested as, converted to or continued as a Eurodollar Rate Loan and (ii) any outstanding Eurodollar Rate Loan denominated in Dollars shall be converted to a Base Rate Loan on the last day of the Interest Period with respect thereto.

(d) The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for Eurodollar Rate Loans upon determination of such interest rate. The determination of the Adjusted Eurodollar Rate by the Administrative Agent shall be conclusive in the absence of manifest error. At any time that Base Rate Loans are outstanding, the Administrative Agent shall notify the Borrower and the Lenders of any change in Bank of America's prime rate used in determining the Base Rate promptly following the public announcement of such change.

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

## 2.03 Additional Provisions with Respect to Letters of Credit.

### (a) Obligation to Issue or Amend.

(i) No L/C Issuer shall issue any Letter of Credit if:

(A) subject to Section 2.03(b)(iii), the expiry date of such requested Letter of Credit would occur more than twelve (12) months after the date of issuance or last extension, unless the Administrative Agent and applicable L/C Issuer (if other than the Administrative Agent) have approved such expiry date; or

(B) the expiry date of such requested Letter of Credit would occur after the L/C Expiration Date, unless all the Revolving Lenders have approved such expiry date.

(ii) No L/C Issuer shall be under any obligation to issue any Letter of Credit if:

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

(B) the issuance of such Letter of Credit would violate any Law applicable to such L/C Issuer;

(C) [Reserved];

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

(E) except as otherwise agreed by such L/C Issuer, such Letter of Credit contains provisions for automatic reinstatement of the stated amount after any drawing thereunder; or

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(F) a default of any Revolving Lender's obligations to fund under Section 2.03(c) exists or any Revolving Lender is at such time a Defaulting Lender, unless such L/C Issuer has entered into satisfactory arrangements with the Borrower or such Revolving Lender to eliminate such L/C Issuer's risk with respect to such Revolving Lender.

(iii) No L/C Issuer shall be under any obligation to amend any Letter of Credit if:

(A) such L/C Issuer would have no obligation at such time to issue such Letter of Credit in its amended form under the terms hereof; or

(B) the beneficiary of such Letter of Credit does not accept the proposed amendment to such Letter of Credit.

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

(b) Procedures for Issuance and Amendment: Auto-Extension Letters of Credit

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrower delivered to the applicable L/C Issuer (with a copy to the Administrative Agent) in the form of a L/C Application, appropriately completed and signed by a Responsible Officer. Such L/C Application must be received by the applicable L/C Issuer and the Administrative Agent (A) not later than 12:00 noon (New York time) at least two (2) Business Days (or such shorter time as the applicable L/C Issuer may agree) prior to the proposed issuance date or date of amendment, as the case may be, of any Letter of Credit denominated in Dollars and (B) not later than 12:00 noon (London time) at least five (5) Business Days (or such shorter time as the applicable L/C Issuer may agree) prior to the proposed issuance date or date of amendment, as the case may be, of any Letter of Credit denominated in an Alternative Currency (or, in each case, such later date and time as the applicable L/C Issuer and the Administrative Agent may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such L/C Application shall specify in form and detail reasonably satisfactory to the applicable L/C Issuer: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount and currency thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing

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thereunder; and (G) such other matters as such L/C Issuer may reasonably require. In the case of a request for an amendment of any outstanding Letter of Credit, such L/C Application shall specify in form and detail satisfactory to the applicable L/C Issuer (A) the Letter of Credit to be amended; (B) the proposed date of amendment thereof (which shall be a Business Day); (C) the nature of the proposed amendment; (D) the purpose and nature of the requested Letter of Credit; and (E) such other matters as such L/C Issuer may reasonably require. Additionally, the Borrower shall furnish to the applicable L/C Issuer and the Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any Issuer Documents, as such L/C Issuer or the Administrative Agent may require.

(ii) Promptly after receipt of any L/C Application, the applicable L/C Issuer will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such L/C Application from the Borrower and, if not, such L/C Issuer will provide the Administrative Agent with a copy thereof. Unless the applicable L/C Issuer has received written notice from the Administrative Agent, any Revolving Lender or any Credit Party, at least one (1) Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in Sections 5.02 (if issued on the Funding Date) and 5.03 shall not then be satisfied, then, subject to the terms and conditions hereof, such L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of the Borrower (or Subsidiary) or enter into the applicable amendment, as the case may be, in each case in accordance with such L/C Issuer's usual and customary business practices. Immediately upon the issuance of each Letter of Credit, each Revolving Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the applicable L/C Issuer a risk participation in such Letter of Credit in an amount equal to such Revolving Lender's Revolving Commitment Percentage thereof.

(iii) If the Borrower so requests in any applicable L/C Application, the applicable L/C Issuer may, in its sole and absolute discretion, agree to issue a Letter of Credit that has automatic extension provisions (each, an "Auto-Extension Letter of Credit"); provided that any such Auto-Extension Letter of Credit must permit the L/C Issuer thereof to prevent any such renewal at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the "Non-Extension Notice Date") in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued (but in any event not later than 30 days prior to the scheduled expiry date thereof). Unless otherwise directed by the applicable L/C Issuer, the Borrower shall not be required to make a specific request to such L/C Issuer for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Revolving Lenders shall be deemed to have authorized (but may not require) such L/C Issuer to permit the extension of such Letter of Credit at any time to an expiry date not later than the L/C Expiration Date; provided, however, that such L/C Issuer shall not permit any such extension if (A) such L/C Issuer has determined that it would not be permitted or would have no obligation at such time to issue such Letter of Credit in its revised form (as extended) under the terms hereof (by reason of the provisions of Section 2.03(a) or otherwise), or (B) it has received notice (which may be by telephone or in writing) on or before the day that is five (5) Business Days

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before the Non-Extension Notice Date from the Administrative Agent or the Borrower that one or more of the applicable conditions specified in Section 5.03 is not then satisfied, and in each case directing such L/C Issuer not to permit such extension.

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

(c) Drawings and Reimbursements; Funding of Participations.

(i) Upon any drawing under any Letter of Credit, the applicable L/C Issuer shall notify the Borrower and the Administrative Agent thereof. In the case of a Letter of Credit denominated in Dollars, the Borrower shall reimburse the applicable L/C Issuer in Dollars. In the case of a Letter of Credit denominated in an Alternative Currency, the Borrower shall reimburse the applicable L/C Issuer in such Alternative Currency, unless (A) such L/C Issuer (at its option) shall have specified in such notice that it will require reimbursement in Dollars, or (B) in the absence of any such requirement for reimbursement in Dollars, the Borrower shall have notified such L/C Issuer promptly following receipt of the notice of drawing that the Borrower will reimburse such L/C Issuer in Dollars. In the case of any such reimbursement in Dollars of a drawing as of the applicable Revaluation Date under a Letter of Credit denominated in an Alternative Currency, the applicable L/C Issuer shall notify the Borrower of the Dollar Equivalent of the amount of the drawing promptly following the determination thereof. Not later than 12:00 noon (New York time) on the date of any payment by an L/C Issuer under a Letter of Credit to be reimbursed in Dollars, and (y) the Applicable Time on the date of any payment by such L/C Issuer under a Letter of Credit to be reimbursed in an Alternative Currency (each such date, an "Honor Date"), the Borrower shall reimburse such L/C Issuer through the Administrative Agent in Dollars or in the applicable Alternative Currency, as the case may be, in an amount equal to the amount of such drawing; provided, that the Borrower, and the applicable L/C Issuer may, each in their discretion, with the consent of the Administrative Agent and so long as such arrangements do not adversely affect the rights of any Lender in any material respect, enter into Letter of Credit cash collateral prefunding arrangements acceptable to them for the purpose of reimbursing Letter of Credit draws. If the Borrower fails to so reimburse such L/C Issuer by such time, the Administrative Agent shall promptly notify each Revolving Lender of the Honor Date, the amount and denomination of the unreimbursed drawing (the "Unreimbursed Amount"), and the amount of such Revolving Lender's Revolving Commitment Percentage thereof. In such event, the Borrower shall be deemed to have requested (x) with respect to amounts denominated in Dollars, a Borrowing in Dollars of Base Rate Loans to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.02(a) for the principal amount of Base Rate Loans (but subject to the amount of the unutilized portion of the Aggregate Revolving Committed Amount (other than with respect to Alternative Currencies)) and the conditions set forth in Section 5.03 and (y) with respect to amounts denominated in an Alternative Currency, a Borrowing of Eurodollar Rate Loans to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum

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and multiples specified in Section 2.02(a) for the principal amount of Eurodollar Rate Loans (but subject to the amount of the unutilized portion of the Aggregate Revolving Committed Amount with respect to Alternative Currencies) and the conditions set forth in Section 5.03. Any notice given by an L/C Issuer or the Administrative Agent pursuant to this Section 2.03(c)(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Revolving Lender shall upon any notice pursuant to Section 2.03(c)(i) make funds available to the Administrative Agent for the account of the applicable L/C Issuer, in Dollars, Euros, Sterling or Canadian Dollars, as the case may be, at the Administrative Agent's Office for payments in such currency in an amount equal to its Revolving Commitment Percentage of the Unreimbursed Amount not later than 2:00 p.m. (New York time) on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.03(c)(iii), each Revolving Lender that so makes funds available shall be deemed to have made a Revolving Loan that is, with respect to amounts denominated in Dollars, a Base Rate Loan and with respect to amounts denominated in an Alternative Currency, a Eurodollar Rate Loan, to the Borrower in the Dollar Equivalent of such amount; provided, that if, prior to the time any Lender is required to fund its participation in a Letter of Credit denominated in an Alternative Currency, such Lender notifies the Administrative Agent in writing that it is unable to make such funds available in such Alternative Currency, then such Lender shall make the Dollar Equivalent of such funds available to the Administrative Agent for the account of the applicable L/C Issuer in Dollars not later than 2:00 p.m. (New York time) two Business Days prior to the date such funds are required from other Lenders funding their participations in Alternative Currency (it being understood and agreed that upon receipt of such funds the Administrative Agent shall so convert such amount into the Alternative Currency Equivalent of such amount). The Administrative Agent shall remit the funds so received to the applicable L/C Issuer in Dollars, or if requested by the applicable L/C Issuer, the equivalent amount thereof in an Alternative Currency as determined by the Administrative Agent at such time on the basis of the Spot Rate (determined as of such funding date) for the purchase of such Alternative Currency with Dollars.

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

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

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Commitment Percentage of such amount shall be solely for the account of such L/C Issuer.

(v) Each Revolving Lender's obligation to make Revolving Loans or L/C Advances to reimburse the applicable L/C Issuer for amounts drawn under Letters of Credit, as contemplated by this Section 2.03(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right that such Revolving Lender may have against such L/C Issuer, the Borrower or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default or Event of Default, (C) with respect to funding participations in L/C Borrowings, non-compliance with the conditions set forth in Section 5.03, or (D) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided that such L/C Issuer shall have complied with the provisions of Section 2.03(b)(ii). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the Borrower to reimburse such L/C Issuer for the amount of any payment made by such L/C Issuer under any Letter of Credit, together with interest as provided herein.

(vi) If any Revolving Lender fails to make available to the Administrative Agent for the account of the applicable L/C Issuer any amount required to be paid by such Revolving Lender pursuant to the foregoing provisions of this Section 2.03(c) by the time specified in Section 2.03(c)(ii), such L/C Issuer shall be entitled to recover from such Revolving Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to such L/C Issuer at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by the applicable L/C Issuer in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by such L/C Issuer in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Loan included in the relevant Borrowing or L/C Advance in respect of the relevant L/C Borrowing, as the case may be. A certificate of such L/C Issuer submitted to any Revolving Lender (through the Administrative Agent) with respect to any amounts owing under this clause (vi) shall be conclusive absent manifest error.

(d) Repayment of Participations.

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

(appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Revolving Lender's L/C Advance was outstanding) in the same type of funds as those received by the Administrative Agent.

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(ii) If any payment received by the Administrative Agent for the account of an L/C Issuer pursuant to Section 2.03(c)(i) is required to be returned under any of the circumstances described in Section 11.05 (including pursuant to any settlement entered into by such L/C Issuer in its discretion), each Revolving Lender shall pay to the Administrative Agent for the account of such L/C Issuer its Revolving Commitment Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the applicable Overnight Rate from time to time in effect. The obligations of the Revolving Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Credit Agreement.

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

- (i) any lack of validity or enforceability of such Letter of Credit, this Credit Agreement or any other Credit Document;
- (ii) the existence of any claim, counterclaim, setoff, defense or other right that the Borrower or any Subsidiary may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), such L/C Issuer or any other Person, whether in connection with this Credit Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;
- (iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;
- (iv) any payment by such L/C Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by such L/C Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law;
- (v) any adverse change in the relevant exchange rates or in the availability of the relevant Alternative Currency to the Borrower or any Subsidiary or in the relevant currency markets generally; or
- (vi) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower or any Subsidiary.

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

(f) Role of each L/C Issuer in such Capacity. Each Revolving Lender and the Borrower agrees that, in paying any drawing under a Letter of Credit, no L/C Issuer shall have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the L/C Issuers, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of any L/C Issuer shall be liable to any Revolving Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Required Revolving Lenders; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Issuer Document. The Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to such Borrower's use of any Letter of Credit; provided, however, that this assumption is not intended to, and shall not, preclude the Borrower's pursuing such rights and remedies as the Borrower may have against the beneficiary or transferee at law or under any other agreement. None of the L/C Issuers, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of any L/C Issuer, shall be liable or responsible for any of the matters described in clauses (i) through (vi) of Section 2.03(e); provided, however, that anything in such clauses to the contrary notwithstanding, the Borrower shall have a claim against an L/C Issuer, and such L/C Issuer shall be liable to the Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Borrower that are determined by a court of competent jurisdiction to have been caused by such L/C Issuer's willful misconduct or gross negligence or such L/C Issuer's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, each L/C Issuer may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and no L/C Issuer shall be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, that may prove to be invalid or ineffective for any reason.

(g) Cash Collateral. Upon the request of the Administrative Agent, (i) if an L/C Issuer has honored any full or partial drawing request under any Letter of Credit and such drawing has resulted in an L/C Borrowing, or (ii) if, as of the L/C Expiration Date, any Letter of Credit may for any reason remain outstanding and partially or wholly undrawn the Borrower shall immediately Cash Collateralize the then Outstanding Amount of all L/C Obligations (in an amount equal to such Outstanding Amount determined as of the date of such L/C Borrowing or the L/C Expiration Date, as the case may be). The Administrative Agent may, at any time and from time to time after the initial deposit of cash collateral, request that additional cash collateral be provided in order to protect against the results of exchange rate fluctuations. For purposes hereof,

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"Cash Collateralize" means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of the applicable L/C Issuer and the Lenders, as collateral for such L/C Obligations, cash or deposit account balances pursuant to customary documentation in form and substance reasonably satisfactory to the Administrative Agent and such L/C Issuer (which documents are hereby consented to by the Lenders). Derivatives of such term have corresponding meanings. Cash collateral shall be maintained in blocked, interest bearing deposit accounts or money market fund accounts at the Administrative Agent.

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

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

(j) Letter of Credit Fees. The Borrower shall pay Letter of Credit Fees as set forth in Section 2.09(b).

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

## **2.04 Additional Provisions with Respect to Swingline Loans**

(a) Borrowing Procedures. Each Swingline Borrowing shall be made upon the Borrower's irrevocable notice to the Swingline Lender and the Administrative Agent, which may be given by telephone. Each such notice must be received by the Swingline Lender and the Administrative Agent not later than 2:00 p.m. (New York time) on the requested borrowing date, and shall specify (i) the amount to be borrowed, which shall be a minimum of \$100,000, and (ii) the requested borrowing date, which shall be a Business Day. Each such telephonic notice must be confirmed promptly by delivery to the Swingline Lender and the Administrative Agent of a written Loan Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Promptly after receipt by the Swingline Lender of any telephonic Loan Notice, the Swingline Lender will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has also received such Loan Notice and, if not, the Swingline Lender will notify the Administrative Agent (by telephone or in writing) of the contents thereof. Unless the Swingline Lender has received notice (by telephone or in writing) from the Administrative Agent prior to 3:00 p.m. (New York time) on the date of the proposed Swingline Borrowing (A) directing the Swingline Lender not to make such Swingline Loan as a result of the limitations set forth in this Article II, or (B) that one or more of the applicable conditions specified in Section 5.02 (if on the Funding Date) and Section 5.03 is not then satisfied, then, subject to the terms and conditions hereof, the Swingline Lender will, not later than 4:00 p.m. (New York time) on the borrowing date specified in such Loan Notice, make the amount of its Swingline Loan available to the

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Borrower at its office by crediting the account of the Borrower on the books of the Swingline Lender in immediately available funds.

(b) Refinancing.

(i) The Swingline Lender at any time in its sole and absolute discretion may request that each Revolving Lender make a Revolving Loan that is a Base Rate Loan in an amount equal to such Revolving Lender's Revolving Commitment Percentage of Swingline Loans then outstanding. Such request shall be made in writing (which written request shall be deemed to be a Loan Notice for purposes hereof) and in accordance with the requirements of Section 2.02, without regard to the minimum and multiples specified therein for the principal amount of Base Rate Loans, but subject to the unutilized portion of the Aggregate Commitments or the conditions set forth in Section 5.03. The Swingline Lender shall furnish the Borrower with a copy of the applicable Loan Notice promptly after delivering such notice to the Administrative Agent. Each Revolving Lender shall make an amount equal to its Revolving Commitment Percentage of the amount specified in such Loan Notice available to the Administrative Agent in immediately available funds for the account of the Swingline Lender at the Administrative Agent's Office not later than 2:00 p.m. (New York time) on the day specified in such Loan Notice, whereupon, subject to Section 2.04(b)(ii), each Revolving Lender that so makes funds available shall be deemed to have made a Revolving Loan that is a Base Rate Loan to the Borrower in such amount. The Administrative Agent shall remit the funds so received to the Swingline Lender.

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

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

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(through the Administrative Agent) with respect to any amounts owing under this clause (iii) shall be conclusive absent manifest error.

(iv) Each Revolving Lender's obligation to make Revolving Loans or to purchase and fund risk participations in Swingline Loans pursuant to this Section 2.04(b) shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right that such Revolving Lender may have against the Swingline Lender, the Borrower or any other Person for any reason whatsoever, (B) the occurrence or continuance of a Default or Event of Default, (C) non-compliance with the conditions set forth in Section 5.03, or (D) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided that Swingline Lender has complied with the provisions of Section 2.04(a). No such purchase or funding of risk participations shall relieve or otherwise impair the obligation of the Borrower to repay Swingline Loans, together with interest as provided herein.

(c) Repayment of Participations.

(i) At any time after any Revolving Lender has purchased and funded a risk participation in a Swingline Loan, if the Swingline Lender receives any payment on account of such Swingline Loan, the Swingline Lender will distribute to such Revolving Lender its Revolving Commitment Percentage of such payment (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Revolving Lender's risk participation was funded) in the same funds as those received by the Swingline Lender.

(ii) If any payment received by the Swingline Lender in respect of principal or interest on any Swingline Loan is required to be returned by the Swingline Lender under any of the circumstances described in Section 11.05 (including pursuant to any settlement entered into by the Swingline Lender in its discretion), each Revolving Lender shall pay to the Swingline Lender its Revolving Commitment Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned, at a rate per annum equal to the Federal Funds Rate. The Administrative Agent will make such demand upon the request of the Swingline Lender. The obligations of the Revolving Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Credit Agreement.

(d) Interest for Account of Swingline Lender. The Swingline Lender shall be responsible for invoicing the Borrower for interest on the Swingline Loans. Until each Revolving Lender funds its Revolving Loan or risk participation pursuant to this Section 2.04 to refinance such Revolving Lender's Revolving Commitment Percentage of any Swingline Loan, interest in respect thereof shall be solely for the account of the Swingline Lender.

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

## 2.05 Repayment of Loans.

(a) Revolving Loans. The Borrower shall repay to the Revolving Lenders the Outstanding Amount of Revolving Loans on the Revolving Termination Date.

(b) Swingline Loans. The Borrower shall repay to the Swingline Lender the Outstanding Amount of the Swingline Loans on the Revolving Termination Date.

(c) Term Loan. The Borrower shall repay the aggregate principal amount of the Term Loans (shown as a percentage of the original aggregate principal amount of the Term Loans) in quarterly installments on the dates set forth below as follows:

Date	Principal Amortization Payment (shown as a Percentage of Original Principal Amount)	Date	Principal Amortization Payment (shown as a Percentage of Original Principal Amount)
March 31, 2009	2.5%	June 30, 2011	5.0%
June 30, 2009	2.5%	September 30, 2011	5.0%
September 30, 2009	2.5%	December 31, 2011	5.0%
December 31, 2009	2.5%	March 31, 2012	5.0%
March 31, 2010	3.75%	June 30, 2012	5.0%
June 30, 2010	3.75%	September 30, 2012	5.0%
September 30, 2010	3.75%	December 31, 2012	5.0%
December 31, 2010	3.75%	March 31, 2013	11.66%
March 31, 2011	5.0%	June 30, 2013	11.66%
		Term Loan	11.67%
		Termination Date	

## 2.06 Prepayments.

(a) Voluntary Prepayments. The Loans may be repaid in whole or in part without premium or penalty (except, in the case of Loans other than Base Rate Loans, amounts payable pursuant to Section 3.05); provided that:

(i) in the case of Loans other than Swingline Loans, (A) notice thereof must be received by 1:00 p.m. (New York time) by the Administrative Agent at least three (3) Business Days (or, in the case of Revolving Loans denominated in Alternative Currency, at least four (4) Business Days) prior to the date of prepayment, in the case of Eurodollar Rate Loans, and one (1) Business Day prior to the date of prepayment, in the case of Base Rate Loans, (B) any such prepayment shall be a minimum principal amount of (w) \$1.0 million and integral multiples of \$1.0 million in excess thereof, in the case of Eurodollar Rate Loans denominated in Dollars, (x) €1.0 million and integral multiples of €1.0 million in excess thereof, in the case of Eurodollar Rate Loans denominated in Euros, (y) £1.0 million and integral multiples of £1.0 million in excess thereof, in the case of Eurodollar

Rate Loans denominated in Sterling and (z) C\$1.0 million and integral multiples of C\$1.0 million in excess thereof, in the case of Eurodollar Rate Loans denominated in Canadian Dollars and \$500,000 and integral multiples of \$100,000 in excess thereof, in the case of Base Rate Loans, or, in each case, the entire remaining principal amount thereof, if less; and

(ii) in the case of Swingline Loans, (A) notice thereof must be received by the Swingline Lender by 2:00 p.m. (New York time) on the date of prepayment (with a copy to the Administrative Agent), and (B) any such prepayment shall be in the same minimum principal amounts as for advances thereof (or any lesser amount that may be acceptable to the Swingline Lender).

Each such notice of voluntary prepayment hereunder shall be irrevocable and shall specify the date and amount of prepayment and the Loans and Types of Loans that are being prepaid and, if Eurodollar Rate Loans are to be prepaid, the Interest Period(s) of such Loans. The Administrative Agent will give prompt notice to the applicable Lenders of any prepayment on the Loans and the Lender's interest therein. Prepayments of Eurodollar Rate Loans hereunder shall be accompanied by accrued interest on the amount prepaid and breakage or other amounts due, if any, under Section 3.05. Notwithstanding the foregoing, a notice of voluntary prepayment delivered by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied.

(b) Mandatory Prepayments. Subject in each case to Section 2.06(c):

(i) Revolving Commitments.

(A) If at any time (1) the Outstanding Amount of Revolving Obligations shall exceed the Aggregate Revolving Committed Amount, (2) the Outstanding Amount of L/C Obligations shall exceed the L/C Sublimit, or (3) the Outstanding Amount of Swingline Loans shall exceed the Swingline Sublimit, immediate prepayment will be made on or in respect of the Revolving Obligations in an amount equal to the difference; provided, however, that L/C Obligations will not be Cash Collateralized hereunder until the Revolving Loans and Swingline Loans have been paid in full.

(B) If the Administrative Agent notifies the Borrower at any time that the Outstanding Amount of all L/C Obligations denominated in Alternative Currencies at such time exceeds an amount equal to 105% of the L/C Sublimit then in effect, then, within two (2) Business Days after receipt of such notice, the Borrower shall Cash Collateralize the L/C Obligations denominated in Alternative Currencies in an aggregate amount sufficient to reduce such Outstanding Amount as of such date of payment to an amount not to exceed 100% of the L/C Sublimit then in effect. The Administrative Agent may, at any time and from time to time after the initial deposit of such cash

collateral, request that additional cash collateral be provided in order to protect against the results of further exchange rate fluctuations.

(ii) Subject Dispositions and Involuntary Dispositions. On or before the applicable date set forth in the next sentence, prepayment will be made on the Loan Obligations

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in an amount equal to one hundred percent (100%) of the Net Cash Proceeds received from any Subject Disposition or Involuntary Disposition by any member of the Consolidated Group occurring after the Closing Date, but solely to the extent (x) the Net Cash Proceeds received in such Subject Disposition (or series of related Subject Dispositions) or Involuntary Disposition (or series of related Involuntary Dispositions) exceed \$5.0 million, (y) the Net Cash Proceeds received in all Subject Dispositions or Involuntary Dispositions effected during the fiscal year in which the applicable Subject Disposition or Involuntary Disposition takes place exceeds \$10.0 million and (z) such Net Cash Proceeds are not used to acquire, maintain, develop, construct, improve, upgrade or repair Property (other than inventory, accounts receivable, cash or Cash Equivalents) useful in the business of the Consolidated Group or to make investments in Permitted Acquisitions that are otherwise permitted hereunder within twelve (12) months of the date of such Subject Disposition or Involuntary Disposition; provided that such a reinvestment shall not be permitted if an Event of Default shall have occurred and be continuing at the time the Borrower commits to make such reinvestment or, if no such commitment is made, the time the reinvestment is actually made, and in either such circumstance such Net Cash Proceeds shall be used to make prepayments on the Loans. Any such prepayment from any Net Cash Proceeds required by the previous sentence shall be made (x) in the case of a Major Disposition in respect of which the notice referred to in Section 7.02(g) has not been delivered on or before the fifteenth (15th) Business Day following the receipt of the Net Cash Proceeds from such Major Disposition or to the extent such notice does not indicate reinvestment is intended with the Net Cash Proceeds of such Major Disposition, on or before the twenty-fifth (25th) Business Day following receipt of such Net Cash Proceeds and (y) in any other case, promptly after the Borrower determines that it will not reinvest such Net Cash Proceeds in accordance with the terms and limitations of the previous sentence, but in no event later than 366 days following the receipt of such Net Cash Proceeds. To the extent that the Borrower has determined in good faith that repatriation to the United States of any or all the Net Cash Proceeds of any Subject Disposition or Involuntary Disposition by a Foreign Subsidiary would have a material adverse tax consequence to the Borrower and its Subsidiaries, the Net Cash Proceeds so affected may be retained by such Foreign Subsidiary, provided that on or before the date on which any such Net Cash Proceeds would otherwise have been required to be applied to reinvestments or prepayments pursuant to the foregoing provisions of this Section 2.06(b)(ii), the Borrower applies an amount equal to such Net Cash Proceeds to such reinvestments or prepayments as if such Net Cash Proceeds had been received by the Borrower rather than such Foreign Subsidiary, less the amount of additional taxes (to the extent such taxes are not already deducted pursuant to the definition of Net Cash Proceeds) that would have been payable or reserved against if such Net Cash Proceeds had been repatriated to the United States.

(iii) Indebtedness. Prepayment will be made on the Loan Obligations in an amount equal to one hundred percent (100%) of the Net Cash Proceeds received from any incurrence or issuance of Indebtedness after the Closing Date (other than Indebtedness expressly permitted to be incurred or issued pursuant to Section 8.03). Any prepayment in respect of such Indebtedness hereunder will be payable on the Business Day following receipt by the Borrower or other members of the Consolidated Group of the Net Cash Proceeds therefrom.

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(iv) Consolidated Excess Cash Flow. If for any fiscal year of the Borrower ending after December 31, 2008 there shall be Consolidated Excess Cash Flow, then, on a date that is no later five Business Days following the date that financial statements for such fiscal year are required to be delivered pursuant to Section 7.01(a), the Loan Obligations shall be prepaid by an amount equal to the ECF Application Amount for such fiscal year.

(v) Spin-Off. If the Spin-Off and the other material transactions that, pursuant to the terms of the Separation Agreement, are to occur prior to or substantially concurrently with the Spin-Off shall not have been consummated on or prior to the fifth Business Day following the Funding Date, then on such fifth Business Day (x) all of the Loan Obligations shall be required to be prepaid, (y) the Revolving Commitment of each Revolving Lender shall be reduced to zero and (z) the Borrower shall Cash Collateralize the then Outstanding Amount of all L/C Obligations.

(vi) Eurodollar Prepayment Account. If the Borrower is required to make a mandatory prepayment of Eurodollar Rate Loans under this Section 2.06(b), so long as no Event of Default exists, the Borrower shall have the right, in lieu of making such prepayment in full, to deposit an amount equal to such mandatory prepayment with the Administrative Agent in a cash collateral account maintained (pursuant to documentation reasonably satisfactory to the Administrative Agent) by and in the sole dominion and control of the Administrative Agent. Any amounts so deposited shall be held by the Administrative Agent as collateral for the prepayment of such Eurodollar Rate Loans and shall be applied to the prepayment of the applicable Eurodollar Rate Loans at the earliest of (x) the end of the current Interest Periods applicable thereto, (y) three months following the date of such deposit and (z) at the election of the Administrative Agent, upon the occurrence of an Event of Default. At the request of the Borrower, amounts so deposited shall be invested by the Administrative Agent in Cash Equivalents maturing on or prior to the date or dates on which it is anticipated that such amounts will be applied to prepay such Eurodollar Rate Loans; any interest earned on such Cash Equivalents will be for the account of the Borrower and the Borrower will deposit with the Administrative Agent the amount of any loss on any such Cash Equivalents to the extent necessary in order that the amount of the prepayment to be made with the deposited amounts may not be reduced.

(c) Application. Within each Loan, prepayments will be applied first to Base Rate Loans, then to Eurodollar Rate Loans in direct order of Interest Period maturities. In addition:

(i) Voluntary Prepayments. Prepayments of the Term Loans pursuant to Section 2.06(a) shall be applied, first, in direct order of maturity in respect of the principal amortization payments due on such Term Loans under Section 2.05(c) within the twelve (12) months following such prepayment, and second, pro rata to the remaining principal amortization installments under Section 2.05(c) on the Term Loans, as the case may be. Voluntary prepayments on the Loan Obligations will be paid by the Administrative Agent to the Lenders ratably in accordance with their respective interests therein.

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(ii) Mandatory Prepayments. Mandatory prepayments on the Loan Obligations will be paid by the Administrative Agent to the Lenders ratably in accordance with their respective interests therein; provided that:

(A) Mandatory prepayments in respect of the Revolving Commitments under subsection (b)(i)(A) above shall be applied to the respective Revolving Obligations as appropriate.

(B) Mandatory prepayments in respect of Subject Dispositions and Involuntary Dispositions under subsection (b)(ii) above, Indebtedness under subsection (b)(iii) and Consolidated Excess Cash Flow under subsection (b)(iv) above shall be applied (i) to the Term Loans, first, in direct order of maturity in respect of the principal amortization payments under Section 2.05(c) due on the Term Loans within the twelve (12) months following such prepayment, and second, pro rata to the remaining principal amortization installments under Section 2.05(c) on the Term Loans, until paid in full, then (ii) to the Revolving Obligations (without permanent reduction of the Revolving Commitments); provided that if any events in subsection (b)(ii) or subsection (b)(iii) occur prior to the Funding Date and on or following the Closing Date, then the amount that would have otherwise been required to be used to make



prepayments of the Loans shall be applied first, to reduce the Term Loan Commitments and second to reduce the Revolving Commitments.

## 2.07 Termination or Reduction of Commitments

Voluntary Reductions. The Commitments hereunder may be permanently reduced in whole or in part by notice from the Borrower to the Administrative Agent; provided that (i) any such notice thereof must be received by 1:00 p.m. (New York time) at least five (5) Business Days prior to the date of reduction or termination and any such reduction or terminations shall be in a minimum amount of \$1.0 million and integral multiples of \$1.0 million in excess thereof; and (ii) the Commitments may not be reduced to an amount less than the Outstanding Amount of Loan Obligations then outstanding thereunder. The Administrative Agent will give prompt notice to the Lenders of any such reduction in Commitments. Any reduction of any Commitments shall be applied to the Commitment of each applicable Lender according to its Pro Rata Share. All commitment or other fees accrued with respect to any Commitment through the effective date of any termination thereof shall be paid on the effective date of such termination. A notice of termination of the Commitments delivered by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied.

## 2.08 Interest.

(a) Subject to the provisions of subsection (b) below, (i) each Eurodollar Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Adjusted Eurodollar Rate for such Interest Period plus the Applicable Percentage; (ii) each Loan that is a Base Rate Loan shall bear interest on the outstanding principal

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amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Percentage; and (iii) each Swingline Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Percentage.

(b) If any amount payable by the Borrower under any Credit Document is not paid when due and an Event of Default has occurred and is continuing under Section 9.01(a), (f) or (h), whether at stated maturity, by acceleration or otherwise, then such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Law.

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

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

## 2.09 Fees.

(a) Facility Fee; Commitment Fee. The Borrower shall pay to the Administrative Agent for the account of each (x) Revolving Lender in accordance with its Revolving Commitment Percentage thereof, a facility fee (the "Facility Fee") equal to 0.50% per annum of the actual daily amount of the Aggregate Revolving Committed Amount and (y) Term Lender in accordance with its Term Loan Commitment Percentage thereof, a commitment fee (the "Commitment Fee") equal to 0.50% per annum of the actual daily amount of the Aggregate Term Loan Committed Amount during the period between the Closing Date and the Funding Date; provided that, if the Borrower continues to have any outstanding Revolving Obligations after the termination of the Commitment Period, then, with respect to each Revolving Lender to whom such Revolving Obligations are then owed, such facility fee shall continue to accrue in accordance with such Lender's Revolving Commitment Percentage thereof of the actual daily amount of the Aggregate Revolving Committed Amount (without giving effect to the expiration of such Commitment Period) from and including the date the Commitment Period terminates to but excluding the date on which such Revolving Obligations are no longer outstanding. Notwithstanding the foregoing, if the Funding Date occurs 60 days or more after the Closing Date, the Commitment Fee and Facility Fee for the period from and including the Closing Date to but excluding the Funding Date shall be increased to 0.75% per annum. The Commitment Fees and Facility Fees shall accrue at all times during the applicable Commitment Period (and, following the expiration of the Commitment Period, the Facility Fee shall continue to accrue to the extent set forth above), including at any time during which one or more of the conditions in Article V is not met, and shall be due and payable quarterly in arrears on the tenth (10th) day of each January, April, July and October (for the Commitment Fee and Facility Fee accrued during the previous calendar quarter), commencing with the first such date to occur after the Closing Date, and on the Revolving Termination Date. The Commitment Fee and Facility Fee shall be calculated quarterly in arrears.

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### (b) Letter of Credit Fees.

(i) Letter of Credit Fees. The Borrower shall pay to the Administrative Agent, for the account of each Revolving Lender in accordance with its Revolving Commitment Percentage, a Letter of Credit fee, in Dollars, (x) for each standby Letter of Credit, an amount equal to the Applicable Percentage for Revolving Loans that are Eurodollar Loans multiplied by the daily maximum undrawn Outstanding Amount under such standby Letter of Credit (the "Standby Letter of Credit Fee"), and (y) for each commercial Letter of Credit, an amount equal to the Applicable Percentage for Revolving Loans that are Eurodollar Loans multiplied by fifty percent (50%), multiplied by the daily maximum amount available to be drawn under such commercial Letter of Credit (the "Commercial Letter of Credit Fee") and, together with the Standby Letter of Credit Fee, the "Letter of Credit Fees"). For purposes of computing the daily undrawn Outstanding Amount under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.08. The Letter of Credit Fees shall be computed on a quarterly basis in arrears, and shall be due and payable on the tenth (10th) day of each January, April, July and October (for the Letter of Credit Fees accrued during the previous calendar quarter), commencing with the first such date to occur after the issuance of such Letter of Credit, on the L/C Expiration Date and thereafter on demand. If there is any change in the Applicable Percentage during any quarter, the daily amount available to be drawn under each Letter of Credit shall be computed and multiplied by the Applicable Percentage separately for each period during such quarter that such Applicable Percentage was in effect. Notwithstanding anything to the contrary contained herein, while any Event of Default has occurred and is continuing under Section 9.01(a), (f) or (h), all Letter of Credit Fees shall accrue at the Default Rate.

(ii) Fronting Fee and Documentary and Processing Charges Payable to L/C Issuers. The Borrower shall pay directly to the applicable L/C Issuer for its own account a fronting fee with respect to each Letter of Credit (other than commercial Letters of Credit), 0.125% of the daily undrawn Outstanding Amount under such Letter of Credit on a quarterly basis in arrears. Such fronting fee shall be due and payable on the tenth (10th) day of each January, April, July and October (for fronting fees accrued during the previous calendar quarter or portion thereof, in the case of the first payment), commencing with the first such date to occur after the issuance of such Letter of Credit, on the L/C Expiration Date and thereafter on demand. For purposes of computing the daily undrawn Outstanding Amount under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.08. In addition, the Borrower shall pay directly to each L/C Issuer for its own account the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of such L/C Issuer relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable on demand and are nonrefundable.

(c) Other Fees. The Borrower shall pay to Bank of America, MLBUSA, Barclays Bank PLC, Barclays Capital, the investment banking division of Barclays Bank PLC, JPMorgan Chase Bank, N.A., Morgan Stanley Senior Funding, Inc., Wachovia Bank and Wachovia Capital Markets, LLC, for their own respective accounts, fees

in the Fee Letter. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

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

**2.10 Computation of Interest and Fees.**

All computations of interest for Base Rate Loans when the Base Rate is determined by Bank of America's prime rate shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year), or, in the case of interest in respect of Eurodollar Loans denominated in Alternative Currencies as to which market practice differs from the foregoing, in accordance with such market practice. Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid, provided that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.11(a), bear interest for one (1) day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

**2.11 Payments Generally: Administrative Agent's Clawback.**

(a) General. All payments to be made by any Credit Party hereunder shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. All payments of principal and interest on any Loan shall be payable in the same currency as such Loan is denominated. All payments of fees pursuant to Section 2.09 shall be payable in Dollars. All payments in respect of Unreimbursed Amounts shall be payable in the currency provided in Section 2.03. All other payments herein shall be payable in the currency specified with respect to such payment or, if the currency is not specified, in Dollars. Except as otherwise expressly provided herein, (x) all payments by the Borrower in Dollars hereunder shall be made to the Administrative Agent, for the account of the Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars and in Same Day Funds not later than 3:00 p.m. (New York time) on the date specified herein and (y) all payments by the Borrower in Alternative Currency hereunder shall be made to the Administrative Agent's Office for payments in such Alternative Currency and in Same Day Funds not later than 2:00 p.m. (London time) on the date specified herein. The Administrative Agent will promptly distribute to each Lender its Pro Rata Share of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after 3:00 p.m. New York time or 2:00 p.m. London time, as applicable shall be deemed received on the immediately succeeding Business Day and any applicable interest or fee shall continue to accrue. Subject to the definition of "Interest Period," if any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

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

(ii) Payments by the Borrower: Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or an L/C Issuer hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or such L/C Issuer, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders or such L/C Issuer, as the case may be, receiving any such payment severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or such L/C Issuer, in Same Day Funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

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

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

(d) Obligation of the Lenders Several. The obligations of the Lenders hereunder to make Loans, to fund participations in Letters of Credit and Swingline Loans and to make payments pursuant to Section 11.04(c) are several and not joint. The failure of any Lender to make any Loan, to fund any such participation or to make any payment under Section 11.04(c) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan, to purchase its participation or to make its payment under Section 11.04(c).

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

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

## **2.12 Sharing of Payments by Lenders.**

If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of the Loans made by it, or the participations in L/C Obligations or in Swingline Loans held by it resulting in such Lender's receiving payment of a proportion of the aggregate amount of such Loans or participations and accrued interest thereon greater than its pro rata share thereof as provided herein, then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Loans and subparticipations in L/C Obligations and Swingline Loans of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans and other amounts owing them, provided that:

- (i) if any such participations or subparticipations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations or subparticipations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and
- (ii) the provisions of this Section shall not be construed to apply to (x) any payment made by the Borrower pursuant to and in accordance with the express terms of this Credit Agreement or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or subparticipations in L/C Obligations or Swingline Loans to any assignee or participant, other than to the Borrower or any Affiliate thereof (as to which the provisions of this Section shall apply).

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

## **2.13 Evidence of Debt.**

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

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

(c) Each Lender having sold a participation in any of its Obligations, acting solely for this purpose as agent for the Borrower, shall maintain a register for the recordation of the names and addresses of such Participants (and each change thereto, whether by assignment or otherwise) and the rights, interest or obligation of such Participants in any Obligation, in any Commitment and in any right to receive any payments hereunder.

## **ARTICLE III**

### **TAXES, YIELD PROTECTION AND ILLEGALITY**

## **3.01 Taxes.**

(a) Payments Free of Taxes. Except as otherwise required by law (as determined in the good faith discretion of the applicable withholding agent), any and all payments by or on account

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of any obligation of the Credit Parties hereunder or under any other Credit Document shall be made free and clear of and without reduction or withholding for any Indemnified or Other Taxes, provided that if the applicable withholding agent shall be required by applicable law (as determined in the good faith discretion of the applicable withholding agent) to deduct or withhold any Indemnified Taxes (including any Other Taxes) from such payments, then (i) the sum payable by the applicable Credit Party shall be increased as necessary so that after making all required deductions or withholdings (including deductions or withholdings applicable to additional sums payable under this Section) the Administrative Agent, Lender or L/C Issuer, as the case may be, receives an amount equal to the sum it would have received had no such deductions or withholdings been made, (ii) the applicable withholding agent shall make such deductions or withholdings and (iii) the applicable withholding agent shall timely pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law.

(b) Payment of Other Taxes by the Borrower. Without limiting the provisions of subsection (a) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) Indemnification by the Borrower. Without duplication of any amounts payable under Section 3.01(a), the Borrower shall indemnify the Administrative Agent, each Lender and each L/C Issuer, within 10 days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) payable by the Administrative Agent, such Lender or such L/C Issuer, as the case may be, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender or an L/C Issuer (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender or an L/C Issuer, shall be conclusive absent manifest error. Upon the reasonable request of any Credit Party, the Lenders, each L/C Issuer and the Administrative Agent agree to use their reasonable efforts to cooperate with such Credit Party (at such Credit Party's direction and expense) in contesting the imposition of, or claiming a refund of, any Indemnified Taxes or Other Taxes paid by such Credit Party, whether directly to a Governmental Authority or pursuant to this Section, that such Credit Party reasonably believes were not correctly or legally asserted

by the relevant Governmental Authority unless the Lender, L/C Issuer or the Administrative Agent, as the case may be, determines in good faith that pursuing such a contest or refund would be materially disadvantageous to it.

(d) Evidence of Payments. As soon as reasonably practicable after any payment of Indemnified Taxes or Other Taxes by the Borrower to a Governmental Authority, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) Status of Lenders. Any Lender that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which the Borrower is resident for tax purposes, or any treaty to which such jurisdiction is a party, with respect to payments hereunder or under any other Credit Document shall deliver to the Borrower (with a copy to the Administrative

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Agent), at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation prescribed by applicable law or as reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements.

Without limiting the generality of the foregoing, in the event that the Borrower is resident for tax purposes in the United States, any Foreign Lender to the extent it may lawfully do so shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Credit Agreement, on or prior to the date on which any such form or certification expires or becomes obsolete and after the occurrence of any event requiring a change in the most recent form or certification previously delivered by it (and from time to time thereafter upon the request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(i) duly completed copies of IRS Form W-8BEN claiming eligibility for benefits of an income tax treaty to which the United States is a party,

(ii) duly completed copies of IRS Form W-8ECI,

(iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Internal Revenue Code, (x) a certificate, in substantially the form of Exhibit 3.01(e) (a “Non-Bank Certificate”), to the effect that such Foreign Lender is not (A) a “bank” within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, (B) a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Internal Revenue Code, or (C) a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Internal Revenue Code and that interest payments being received are not effectively connected with the Foreign Lender’s conduct of a U.S. trade or business and (y) duly completed copies of IRS Form W-8BEN,

(iv) in the case of a Foreign Lender that does not act or ceases to act for its own account with respect to any portion of any sums paid or payable to such Lender under any of the Credit Documents (for example, in the case of a Foreign Lender that is a partnership for U.S. federal income tax purposes for that is a participating Lender granting a typical participation), duly completed copies of Internal Revenue Service Form W-8IMY, together with the appropriate IRS Form W-8BEN, ECI or IMY, W-9 and/or Non-Bank Certificate with respect to each beneficial owner (provided that, if the Foreign Lender is a partnership, one or more of whose beneficial owners is claiming the portfolio interest exception, the Foreign Lender may provide the Non-Bank Certificate on behalf of such beneficial owners), and any other certificate or statement of exemption required under the Internal Revenue Code or the regulations thereunder, to establish that such Foreign Lender is not acting for its own account with respect to a portion of any such sums

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payable to such Foreign Lender and to establish that such remaining portion may be received without deduction for, or at a reduced rate of, United States federal withholding tax; or

(v) any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in United States federal withholding tax duly completed together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower or Administrative Agent to determine the withholding or deduction required to be made, if any.

Any Lender or L/C Issuer that is a United States person under Section 7701(a)(30) of the Internal Revenue Code, to the extent it may lawfully do so, shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Lender or L/C Issuer becomes a Lender or L/C Issuer, as applicable, under this Credit Agreement, on or prior to the date on which any such form or certification expires or becomes obsolete and after the occurrence of any event requiring a change in the most recent form or certification previously delivered by it (and from time to time thereafter upon the request of the Borrower or the Administrative Agent), duly completed copies of Internal Revenue Service Form W-9 (or any successor form) certifying that such Lender or L/C Issuer is entitled to an exemption from U.S. backup withholding tax.

(f) Treatment of Certain Refunds. If the Administrative Agent, any Lender or an L/C Issuer determines, in its reasonable discretion, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by any Credit Party or with respect to which a Credit Party has paid additional amounts pursuant to this Section, it shall pay to the Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Credit Party under this Section with respect to the Indemnified Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the Administrative Agent, such Lender or such L/C Issuer, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that the Borrower, upon the request of the Administrative Agent, such Lender or such L/C Issuer, agrees to repay the amount paid over to the Borrower plus any penalties, interest (attributable to the period of time that the Borrower had use of such funds) or other charges imposed by the relevant Governmental Authority) to the Administrative Agent, such Lender or such L/C Issuer in the event the Administrative Agent, such Lender or such L/C Issuer is required to repay such refund to such Governmental Authority. This subsection shall not be construed to require the Administrative Agent, any Lender or any L/C Issuer to make available its Tax returns (or any other information relating to its taxes that it deems confidential) to the Borrower or any other Person. Notwithstanding anything to the contrary, in no event will any Lender or L/C Issuer be required to pay any amount to the Borrower the payment of which would place such Lender or L/C Issuer in a less favorable net after-tax position that such Lender or L/C Issuer would have been in if the Indemnified Tax giving rise to such refund had never been imposed.

### **3.02 Illegality.**

If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to

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make, maintain or fund Eurodollar Rate Loans, or to determine or charge interest rates based upon the Adjusted Eurodollar Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, any obligation of such Lender to make or continue Eurodollar Rate Loans or to convert Loans that are Base Rate Loans to Eurodollar Rate Loans shall be suspended until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Borrower shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all Eurodollar Rate Loans of such Lender to Base Rate Loans, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurodollar Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurodollar Rate Loans. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

### **3.03 Inability to Determine Rates.**

If the Required Lenders determine that for any reason in connection with any request for a Eurodollar Rate Loan or a conversion to or continuation thereof that (a) Dollar deposits are not being offered to banks in the London interbank Eurodollar market for the applicable amount and Interest Period of such Eurodollar Rate Loan, (b) adequate and reasonable means do not exist for determining the Adjusted Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan, or (c) the Adjusted Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, the obligation of the Lenders to make or maintain Eurodollar Rate Loans shall be suspended until the Administrative Agent (upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurodollar Rate Loans or, failing that, will be deemed to have converted such request into a request for a Borrowing of Loans that are Base Rate Loans in the amount specified therein.

### **3.04 Increased Cost; Capital Adequacy.**

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement reflected in the Adjusted Eurodollar Rate) or any L/C Issuer;

(ii) subject any Lender or any L/C Issuer to any tax of any kind whatsoever with respect to this Credit Agreement, any Letter of Credit, any participation in a Letter of Credit or any Loan made by it, or change the basis of taxation of payments to such Lender or such L/C Issuer in respect thereof (except, in each case, for Indemnified Taxes or Other Taxes covered by Section 3.01 and the imposition of, or any change in the rate of, any Excluded Tax payable by such Lender or such L/C Issuer); or

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(iii) impose on any Lender or any L/C Issuer or the London interbank market any other condition, cost or expense affecting this Credit Agreement or Eurodollar Rate Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Eurodollar Rate Loan (or, in the case of clause (ii) above, any Loan), or of maintaining its obligation to make any such Loan, or to increase the cost to such Lender or such L/C Issuer of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or such L/C Issuer hereunder (whether of principal, interest or any other amount) then, upon request of such Lender or such L/C Issuer, the Borrower will pay to such Lender or such L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or such L/C Issuer, as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender or any L/C Issuer determines that any Change in Law affecting such Lender or such L/C Issuer or any Lending Office of such Lender or such Lender's or such L/C Issuer's holding company, if any, regarding capital requirements has or would have the effect of reducing the rate of return on such Lender's or such L/C Issuer's capital or on the capital of such Lender's or such L/C Issuer's holding company, if any, as a consequence of this Credit Agreement, the Commitments of such Lender or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by such L/C Issuer, to a level below that which such Lender or such L/C Issuer or such Lender's or such L/C Issuer's holding company could have achieved but for such Change in Law, then from time to time the Borrower will pay to such Lender or such L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or such L/C Issuer or such Lender's or such L/C Issuer's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender or an L/C Issuer setting forth the amount or amounts necessary to compensate such Lender or such L/C Issuer or its holding company, as the case may be, as specified in subsections (a) or (b) of this Section and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender or such L/C Issuer, as the case may be, the amount shown as due on any such certificate within ten (10) days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender or any L/C Issuer to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of such Lender's or such L/C Issuer's right to demand such compensation, provided that the Borrower shall not be required to compensate a Lender or an L/C Issuer pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than nine (9) months prior to the date that such Lender or such L/C Issuer, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or such L/C Issuer's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

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### **3.05 Compensation for Losses.**

Upon demand of any Lender (with a copy to the Administrative Agent) from time to time, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any reasonable loss, cost or expense incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise); or

(b) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan on the date or in the amount notified by the Borrower; or

(c) any assignment of a Eurodollar Rate Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to

Section 11.13:

including any reasonable loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on behalf of a Lender, shall be conclusive absent manifest error.

For purposes of calculating amounts payable by the Borrower to the Lenders under this Section 3.05, each Lender shall be deemed to have funded each Eurodollar Rate Loan made by it at the Adjusted Eurodollar Rate for such Loan by a matching deposit or other borrowing in the London interbank eurodollar market for a comparable amount and for a comparable period, whether or not such Eurodollar Rate Loan was in fact so funded.

**3.06 Mitigation Obligations; Replacement of Lenders**

(a) Designation of a Different Lending Office. If any Lender requests compensation under Section 3.04, or the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then such Lender shall use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) Replacement of Lenders. If any Lender requests compensation under Section 3.04, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, the Borrower may replace such Lender in accordance with Section 11.13.

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(c) Limitation on Additional Amounts, Etc. Notwithstanding anything to the contrary contained in this Article III of this Credit Agreement, unless a Lender gives notice to the Borrower that it is obligated to pay an amount under this Article within nine (9) months after the later of (i) the date the Lender incurs the respective increased costs, loss, expense or liability, reduction in amounts received or receivable or reduction in return on capital or (ii) the date such Lender has actual knowledge of its incurrance of the respective increased costs, loss, expense or liability, reductions in amounts received or receivable or reduction in return on capital, then such Lender shall only be entitled to be compensated for such amount by the Borrower pursuant to this Article III, to the extent of the costs, loss, expense or liability, reduction in amounts received or receivable or reduction in return on capital that are incurred or suffered on or after the date which occurs nine (9) months prior to such Lender giving notice to the Borrower that it is obligated to pay the respective amounts pursuant to this Article III.

**3.07 Survival Losses.**

All of the Borrower's obligations under this Article III shall survive termination of the Aggregate Commitments and repayment of all other Obligations hereunder.

**3.08 Additional Reserve Costs.**

(a) In the case of any Lender making an Approved Currency Revolving Loan from a Lending Office in the United Kingdom or a Participating Member State such Lender shall be entitled to require the Borrower to pay, contemporaneously with each payment of interest on each of such Loans, additional interest on such Loan at a rate per annum equal to the Mandatory Cost Rate calculated in accordance with the formula and in the manner set forth in Schedule 3.08 hereto.

(b) For so long as any Lender is required to comply with reserve assets, liquidity, cash margin or other requirements of any monetary or other authority (including any such requirement imposed by the European Central Bank, the European System of Central Banks or the Bank of Canada, but excluding requirements reflected in the Statutory Reserves or the Mandatory Cost Rate) in respect of any of such Lender's Eurodollar Rate Loans, such Lender shall be entitled to require the Borrower to pay, contemporaneously with each payment of interest on each of such Lender's Loans subject to such requirements, additional interest on such Loan at a rate per annum specified by such Lender to be the cost to such Lender of complying with such requirements in relation to such Loan.

(c) Any additional interest owed pursuant to paragraph (a) or (b) above shall be determined in reasonable detail by the applicable Lender, which determination shall be conclusive absent manifest error, and notified to the Borrower (with a copy to the Administrative Agent) at least five Business Days before each date on which interest is payable for the applicable Loan, and such additional interest so notified to the Borrower by such Lender shall be payable to the Administrative Agent for the account of such Lender on each date on which interest is payable for such Loan.

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**ARTICLE IV**

**GUARANTY**

**4.01 The Guaranty.**

(a) Each of the Guarantors hereby jointly and severally guarantees to the Administrative Agent and each of the holders of the Obligations, as hereinafter provided, as primary obligor and not as surety, the prompt payment of the Obligations (the "Guaranteed Obligations") in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration, as a mandatory cash collateralization or otherwise) strictly in accordance with the terms thereof. The Guarantors hereby further agree that if any of the Guaranteed Obligations are not paid in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration, as a mandatory cash collateralization or otherwise), the Guarantors will, jointly and severally, promptly pay the same, without any demand or notice whatsoever, and that in the case of any extension of time of payment or renewal of any of the Guaranteed Obligations, the same will be promptly paid in full when due (whether at extended maturity, as a mandatory prepayment, by acceleration, as a mandatory cash collateralization or otherwise) in accordance with the terms of such extension or renewal.

(b) Notwithstanding any provision to the contrary contained herein, in any other of the Credit Documents, Swap Contracts or other documents relating to the Obligations, the obligations of each Guarantor under this Credit Agreement and the other Credit Documents shall be limited to an aggregate amount equal to the largest amount that would not render such obligations subject to avoidance under the Debtor Relief Laws or any comparable provisions of any applicable state law.

**4.02 Obligations Unconditional.**

The obligations of the Guarantors under Section 4.01 are joint and several, absolute and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of any of the Credit Documents or other documents relating to the Obligations, or any substitution, compromise, release, impairment or exchange of any other guarantee or security for any of the Guaranteed Obligations, and, to the fullest extent permitted by applicable Law, irrespective of any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, it being the intent of this Section 4.02 that the obligations of the Guarantors

hereunder shall be absolute and unconditional under any and all circumstances. Each Guarantor agrees that such Guarantor shall have no right of subrogation, indemnity, reimbursement or contribution against the Borrower or any other Guarantor for amounts paid under this Article IV until such time as the Obligations have been irrevocably paid in full and the commitments relating thereto have expired or been terminated. Without limiting the generality of the foregoing, it is agreed that, to the fullest extent permitted by law, the occurrence of any one or more of the following shall not alter or impair the liability of any Guarantor hereunder, which shall remain absolute and unconditional as described above:

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(a) at any time or from time to time, without notice to any Guarantor, the time for any performance of or compliance with any of the Guaranteed Obligations shall be extended, or such performance or compliance shall be waived;

(b) any of the acts mentioned in any of the provisions of any of the Credit Documents, or other documents relating to the Guaranteed Obligations or any other agreement or instrument referred to therein shall be done or omitted;

(c) the maturity of any of the Guaranteed Obligations shall be accelerated, or any of the Obligations shall be modified, supplemented or amended in any respect, or any right under any of the Credit Documents or other documents relating to the Guaranteed Obligations, or any other agreement or instrument referred to therein shall be waived or any other guarantee of any of the Guaranteed Obligations or any security therefor shall be released, impaired or exchanged in whole or in part or otherwise dealt with;

(d) any Lien granted to, or in favor of, the Administrative Agent or any of the holders of the Guaranteed Obligations as security for any of the Guaranteed Obligations shall fail to attach or be perfected; or

(e) any of the Guaranteed Obligations shall be determined to be void or voidable (including, without limitation, for the benefit of any creditor of any Guarantor) or shall be subordinated to the claims of any Person (including, without limitation, any creditor of any Guarantor).

With respect to its obligations hereunder, each Guarantor hereby expressly waives diligence, presentment, demand of payment, protest, notice of acceptance of the guaranty given hereby and of extensions of credit that may constitute obligations guaranteed hereby, notices of amendments, waivers and supplements to the Credit Documents and other documents relating to the Guaranteed Obligations, or the compromise, release or exchange of collateral or security, and all notices whatsoever, and any requirement that the Administrative Agent or any holder of the Guaranteed Obligations exhaust any right, power or remedy or proceed against any Person under any of the Credit Documents or any other documents relating to the Guaranteed Obligations or any other agreement or instrument referred to therein, or against any other Person under any other guarantee of, or security for, any of the Obligations.

#### **4.03 Reinstatement.**

Neither the Guarantors' obligations hereunder nor any remedy for the enforcement thereof shall be impaired, modified, changed or released in any manner whatsoever by an impairment, modification, change, release or limitation of the liability of the Borrower, by reason of the Borrower's bankruptcy or insolvency or by reason of the invalidity or unenforceability of all or any portion of the Guaranteed Obligations. The obligations of the Guarantors under this Article IV shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of any Person in respect of the Guaranteed Obligations is rescinded or must be otherwise restored by any holder of any of the Obligations, whether as a result of any proceedings pursuant to any Debtor Relief Law or otherwise, and each Guarantor agrees that it will indemnify the Administrative Agent and each holder of Guaranteed Obligations on demand for all reasonable costs and expenses (including all reasonable fees, expenses and disbursements of any law

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firm or other counsel) incurred by the Administrative Agent or such holder of Guaranteed Obligations in connection with such rescission or restoration, including any such costs and expenses incurred in defending against any claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any Debtor Relief Law.

#### **4.04 Certain Waivers.**

Each Guarantor acknowledges and agrees that (a) the guaranty given hereby may be enforced without the necessity of resorting to or otherwise exhausting remedies in respect of any other security or collateral interests, and without the necessity at any time of having to take recourse against the Borrower hereunder or against any collateral securing the Guaranteed Obligations or otherwise, (b) it will not assert any right to require the action first be taken against the Borrower or any other Person (including any co-guarantor) or pursuit of any other remedy or enforcement of any other right and (c) nothing contained herein shall prevent or limit action being taken against the Borrower hereunder, under the other Credit Documents or the other documents and agreements relating to the Guaranteed Obligations or from foreclosing on any security or collateral interests relating hereto or thereto, or from exercising any other rights or remedies available in respect thereof, if neither the Borrower nor the Guarantors shall timely perform their obligations, and the exercise of any such rights and completion of any such foreclosure proceedings shall not constitute a discharge of the Guarantors' obligations hereunder unless as a result thereof, the Guaranteed Obligations shall have been indefeasibly paid in full and the commitments relating thereto shall have expired or been terminated, it being the purpose and intent that the Guarantors' obligations hereunder be absolute, irrevocable, independent and unconditional under all circumstances.

#### **4.05 Remedies.**

The Guarantors agree that, to the fullest extent permitted by law, as between the Guarantors, on the one hand, and the Administrative Agent and the holders of the Guaranteed Obligations, on the other hand, the Guaranteed Obligations may be declared to be forthwith due and payable as provided in Section 9.02 (and shall be deemed to have become automatically due and payable in the circumstances provided in Section 9.02) for purposes of Section 4.01, notwithstanding any stay, injunction or other prohibition preventing such declaration (or preventing the Guaranteed Obligations from becoming automatically due and payable) as against any other Person and that, in the event of such declaration (or the Guaranteed Obligations being deemed to have become automatically due and payable), the Guaranteed Obligations (whether or not due and payable by any other Person) shall forthwith become due and payable by the Guarantors for purposes of Section 4.01. The Guarantors acknowledge and agree that the Guaranteed Obligations are secured in accordance with the terms of the Collateral Documents and that the holders of the Guaranteed Obligations may exercise their remedies thereunder in accordance with the terms thereof.

#### **4.06 Rights of Contribution.**

The Guarantors hereby agree as among themselves that, in connection with payments made hereunder, each Guarantor shall have a right of contribution from each other Guarantor in accordance with applicable Law. Such contribution rights shall be subordinate and subject in

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right of payment to the Guaranteed Obligations until such time as the Guaranteed Obligations have been irrevocably paid in full and the commitments relating thereto shall have expired or been terminated, and none of the Guarantors shall exercise any such contribution rights until the Guaranteed Obligations have been irrevocably paid in full and the commitments relating thereto shall have expired or been terminated.

#### **4.07 Guaranty of Payment; Continuing Guaranty.**

The guaranty in this Article IV is a guaranty of payment and not of collection, and is a continuing guaranty, and shall apply to all Guaranteed Obligations whenever arising.

### **ARTICLE V**

#### **CONDITIONS PRECEDENT TO CREDIT EXTENSIONS**

##### **5.01 Conditions to Closing Date.**

The effectiveness of this Credit Agreement is subject to satisfaction of the following conditions precedent:

(a) Executed Credit Agreement. The Administrative Agent's receipt of counterparts of this Credit Agreement dated as of the Closing Date, duly executed by a Responsible Officer of the Borrower and by each Lender party thereto, and in form and substance satisfactory to the Administrative Agent, the Lead Arrangers and each of the Lenders.

(b) [Reserved].

(c) Officer Certificates. The following shall be true as of the Closing Date, and the Administrative Agent shall have received a certificate or certificates of a Responsible Officer of the Borrower, dated as of the Closing Date, certifying each of the following:

(i) Consents. No consents, licenses or approvals are required in connection with the execution, delivery and performance by any Credit Party of the Credit Documents to which it is a party, other than as are in full force and effect and, to the extent requested by the Administrative Agent, are attached thereto;

(ii) Material Adverse Effect. There has been no event or circumstance since December 31, 2007 (other than an event or condition set forth in Schedule 5.01(c)(ii) hereto (each such event or condition, so listed on such Schedule, a "Scheduled Matter"), except for any development or change in any such Scheduled Matter after June 19, 2008 that would, in and of itself, have or could be reasonably expected to have a Material Adverse Effect), that has had or would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect;

(iii) Material Litigation. There shall be no action, suit, investigation or proceeding pending in any court or before any arbitrator or Governmental Authority that would reasonably be expected to have a Material Adverse Effect; and

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(iv) Representations and Warranties: No Default. The conditions set forth in Sections 5.01(d) and (e) have been satisfied as of the Closing Date.

(d) The representations and warranties set forth in Sections 6.06, 6.12, 6.13, 6.14 and 6.15 shall be true and correct as of the Closing Date.

(e) No Default or Event of Default shall have occurred and be continuing or would result from the occurrence of the Closing Date.

Without limiting the generality of the provisions of Section 10.04, for purposes of determining compliance with the conditions specified in this Section 5.01, each Lender that has signed this Credit Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

##### **5.02 Conditions to the Funding Date.**

The obligation of each Lender and each L/C Issuer to make its initial Credit Extension hereunder is subject to satisfaction of the following conditions precedent:

(a) Execution of Credit Documents and Joinders. The Administrative Agent shall have received counterparts of (i) a Joinder Agreement to the Credit Agreement duly executed by a Responsible Officer of each Guarantor, (ii) the Security Agreement, duly executed by a Responsible Officer of the Borrower and each Guarantor, (iii) the Pledge Agreement, duly executed by a Responsible Officer of the Borrower and each Guarantor and (iv) Notes, to the extent requested by a Lender by written notice delivered to the Borrower at least five (5) Business Days prior to the Funding Date, duly executed by a Responsible Officer of the Borrower.

(b) Spin-Off. The Administrative Agent shall be reasonably satisfied that the Spin-Off will be consummated substantially simultaneously with, or within five (5) Business Days after, the initial Borrowing of Term Loans hereunder. The Administrative Agent shall be satisfied that all governmental, shareholder and third party consents and approvals necessary in connection with the Spin-Off shall have been obtained and all applicable waiting periods shall have expired without any continuing action being taken by any authority that would restrain, prevent or impose any material adverse conditions on the Borrower and its Subsidiaries or the Transactions, and no Law or regulation shall be applicable which in the reasonable judgment of the Administrative Agent would have such effect, in each case to the extent the foregoing could either reasonably be expected to prevent the consummation of the Spin-Off as contemplated by the Separation Agreement or could reasonably be expected to result in a Material Adverse Effect.

(c) Personal Property Collateral. The Collateral Agent's receipt of the following:

(i) Lien Priority. Evidence, including UCC, tax and judgment lien searches from the jurisdiction of formation and jurisdiction of the chief executive office of each Credit Party and intellectual property searches, that none of the Collateral is subject to any Liens (in each case other than Permitted Liens);

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(ii) UCC Financing Statements. Such UCC financing statements as are necessary or appropriate, in the Collateral Agent's discretion, to perfect the security interests in the Collateral;

(iii) Intellectual Property. Such patent, trademark and copyright security agreements as are necessary or appropriate, in the Collateral Agent's discretion, to perfect the security interests in the Credit Parties' material IP Rights;



(iv) Capital Stock. Original certificates evidencing the Capital Stock pledged pursuant to the Collateral Documents and required to be delivered thereunder (to the extent such Capital Stock is certificated and other than certificates of Capital Stock of Foreign Subsidiaries), together with undated stock transfer powers executed in blank; provided that with respect to the stock of any Subsidiary of the Borrower, the Administrative Agent may, in its sole discretion, provide a reasonable amount of time after the initial funding for the Borrower to deliver such original certificates; and

(v) Promissory Notes. Original promissory notes to the extent required by the Security Agreement, if any, evidencing intercompany loans or advances owing to any Credit Party by any Subsidiary of the Borrower, together with undated allonges executed in blank (provided that the Administrative Agent may, in its sole discretion, provide a reasonable amount of time after the initial funding for the Borrower to deliver such original promissory notes).

(d) Real Property Collateral. The Collateral Agent shall have received:

(i) a Mortgage encumbering each Mortgaged Property in favor of the Collateral Agent, for the benefit of the holders of the Obligations, duly executed and acknowledged by each Credit Party that is the owner of or holder of any interest in such Mortgaged Property, and otherwise in form for recording in the recording office of each applicable political subdivision where each such Mortgaged Property is situated, together with such certificates, affidavits, questionnaires or returns as shall be required in connection with the recording or filing thereof to create a lien under applicable requirements of law, and such financing statements and any other instruments necessary to grant a mortgage lien under the laws of any applicable jurisdiction, all of which shall be substantially in the form of Exhibit 1.01D or otherwise in form and substance reasonably satisfactory to Collateral Agent;

(ii) with respect to each Mortgage, a policy of title insurance (or marked up title insurance commitment having the effect of a policy of title insurance) insuring the Lien of such Mortgage as a valid first mortgage Lien on the Mortgaged Property and fixtures described therein in the amount equal to not less than 115% of the fair market value of such Mortgaged Property and fixtures, which fair market value is set forth on Schedule 5.02(d)(ii), which policy (or such marked-up commitment) (each, a "Title Policy") shall (A) be issued by the Title Company, (B) have been supplemented by the following endorsements: "tie-in" or "cluster" (i.e., policies which insure against losses regardless of location or allocated value of the insured property up to a stated maximum coverage amount), usury, first loss, last dollar, zoning, contiguity, revolving credit, doing business,

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non-imputation, public road access, survey, variable rate, environmental lien, subdivision, mortgage recording tax, separate tax lot, revolving credit, and so-called comprehensive coverage over covenants and restrictions, in each case to the extent requested by the Administrative Agent and available on commercially reasonable terms, and (C) contain no exceptions to title other than such as would be permitted under Section 8.01; provided, that this condition precedent may be waived in the sole discretion of the Administrative Agent (it being understood that in such case, the requirements hereof shall become a condition subsequent, to be met in a timeframe determined by the Administrative Agent in its sole discretion);

(iii) evidence reasonably acceptable to the Collateral Agent of payment by Borrower of all expenses required for the recording of the Mortgages and issuance of the Title Policies referred to above; and

(iv) a completed "Life-of-Loan" Federal Emergency Management Agency Standard Flood Hazard Determination with respect to each Mortgaged Property (together with a notice about special flood hazard area status and flood disaster assistance duly executed by the Borrower and each Credit Party relating thereto).

(e) Evidence of Insurance. The Collateral Agent's receipt of copies of binders with respect to all property and liability insurance required to be maintained pursuant to Section 7.08 and the other Credit Documents (including without limitation, flood insurance policies to the extent required by any Credit Document); in form satisfactory to the Administrative Agent.

(f) Opinions of Counsel. The Administrative Agent's receipt of a customary duly executed opinion of Wachtell, Lipton Rosen & Katz and of appropriate local counsel to the Credit Parties, dated as of the Funding Date, in each case reasonably satisfactory to the Administrative Agent.

(g) Organization Documents, Etc. The Administrative Agent's receipt of a duly executed certificate of a Responsible Officer of each Credit Party, attaching each of the following documents and certifying that each is true, correct and complete and in full force and effect as of the Funding Date:

(i) Charter Documents. Copies of its articles or certificate of organization or formation, certified to be true, correct and complete as of a recent date by the appropriate Governmental Authority of the jurisdiction of its organization or formation;

(ii) Bylaws. Copies of its bylaws, operating agreement or partnership agreement;

(iii) Resolutions. Copies of its resolutions approving and adopting the Credit Documents to which it is party, the transactions contemplated therein, and authorizing the execution and delivery thereof;

(iv) Incumbency. Incumbency certificates identifying the Responsible Officers of such Credit Party that are authorized to execute Credit Documents and to act on such Credit Party's behalf in connection with the Credit Documents; and

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(v) Good Standing Certificates. Certificates of good standing or the equivalent from its jurisdiction of organization or formation, in each case certified as of a recent date by the appropriate Governmental Authority.

(h) Officer Certificates. The following shall be true as of the Funding Date, and the Administrative Agent shall have received a customary certificate or certificates of a Responsible Officer of the Borrower, dated as of the Funding Date, certifying each of the following:

(i) Material Adverse Effect. There has been no event or circumstance since December 31, 2007 (other than a Scheduled Matter, except for any development or change in any such Scheduled Matter after June 19, 2008 that would, in and of itself, have or could be reasonably expected to have a Material Adverse Effect), that has had or would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect; and

(ii) Material Litigation. There shall be no action, suit, investigation or proceeding pending in any court or before any arbitrator or Governmental Authority that would reasonably be expected to have a Material Adverse Effect.

(i) Pro Forma Financial Statements. The Lenders shall have received the balance sheet as of March 31, 2008 and, if the Funding Date is on or after August 31, 2008, June 30, 2008, and statements of income and cash flows for the period ended March 31, 2008 and, if the Funding Date is on or after August 31, 2008, June 30, 2008, in each case as to the Borrower and its Subsidiaries giving effect to the Transactions on a pro forma basis.

(j) Financial Statements. Copies of the financial statements referred to in Section 6.05.

(k) Separation Agreement. The Administrative Agent shall have received a final, execution version of the Separation Agreement, which shall not have any changes since the draft of July 25, 2008 provided to the Lead Arrangers that are materially adverse to the Lenders, and there shall have been no changes to the structure or terms of the Spin-Off and related transactions pursuant to Section 12.01 of the Separation Agreement that are materially adverse to the Lenders, in each case, unless reasonably satisfactory to the Lead Arrangers.

(l) Solvency. The Administrative Agent shall have received a customary certificate, dated as of the Funding Date, certified by the chief financial officer of the Borrower, stating that the Borrower and its Subsidiaries, on a consolidated basis after giving effect to the Transactions, are Solvent.

(m) Fees and Expenses. All fees and expenses (including, unless waived by the Administrative Agent, all reasonable fees, expenses and disbursements of any law firm or other counsel (including any local counsel)) invoiced to the Borrower at least two Business Days prior to the Funding Date and required to be paid on or before the Funding Date shall have been paid.

(n) Senior Notes. The Borrower shall have consummated the issuance of the Senior Notes.

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(o) Indebtedness. After giving effect to the Funding Date, the Borrower and its Subsidiaries shall have no Indebtedness other than with respect to the Term Loans, the Existing Letters of Credit, the Senior Notes, Indebtedness permitted pursuant to Section 8.03(b) and other Indebtedness incurred in the ordinary course of business since the Closing Date and otherwise permitted hereunder and other Indebtedness as may be reasonably acceptable to the Lead Arrangers.

(p) Schedule 7.08. The Borrower shall have delivered to the Administrative Agent Schedule 7.08.

(q) Funding Date. The Funding Date shall have occurred on or prior to September 30, 2008.

### **5.03 Conditions to All Credit Extensions.**

The obligation of each Lender and each L/C Issuer to honor any Request for Credit Extension is subject to the following conditions precedent:

(a) The representations and warranties of the Borrower and each other Credit Party contained in Article VI shall be true and correct in all material respects on and as of the date of such Credit Extension, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects as of such earlier date (provided that representations and warranties that are qualified by materiality shall be true and correct in all respects).

(b) No Default or Event of Default shall exist, or would result from such proposed Credit Extension or from the application of the proceeds thereof.

(c) The Administrative Agent and, if applicable, the applicable L/C Issuer or the Swingline Lender shall have received a Request for Credit Extension in accordance with the requirements hereof.

Each Request for Credit Extension submitted by the Borrower shall be deemed to be a representation and warranty by the Borrower that the conditions specified in Sections 5.03(a) and (b) have been satisfied on and as of the date of the applicable Credit Extension.

## **ARTICLE VI**

### **REPRESENTATIONS AND WARRANTIES**

The Credit Parties represent and warrant to the Administrative Agent and the Lenders that (it being understood and agreed that on the Closing Date only, the representations and warranties set forth in this Article VI shall only be made to the extent set forth in Section 5.01(d)):

#### **6.01 Existence, Qualification and Power.**

Each Credit Party (a) is duly organized or formed, validly existing and in good standing under the Laws of the jurisdiction of its incorporation or formation, (b) has all requisite power

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and authority and all requisite governmental licenses, authorizations, consents and approvals to (i) execute, deliver and perform its obligations under the Credit Documents to which it is a party and (ii) except to the extent it would not reasonably be expected to have a Material Adverse Effect, own its assets and carry on its business, and (c) except to the extent it would not reasonably be expected to have a Material Adverse Effect, is duly qualified and is licensed and in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license.

#### **6.02 Authorization; No Contravention.**

The execution, delivery and performance by each Credit Party of each Credit Document to which it is party have been duly authorized by all necessary corporate or other organizational action and do not (a) contravene the terms of such Credit Party's Organization Documents; (b) conflict with or result in any breach or contravention of, or the creation of any Lien (other than Permitted Liens) under, (i) any Contractual Obligation to which such Credit Party is party or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Credit Party or its Property is subject; or (c) violate any Law applicable to such Credit Party and the relevant Credit Documents, except, in the case of clauses (b) or (c) of this Section 6.02 only, as would not reasonably be expected to have a Material Adverse Effect.

#### **6.03 Governmental Authorization; Other Consents.**

No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Credit Party of this Credit Agreement or any other Credit Document (other than (a) as have already been obtained and are in full force and effect, (b) filings to perfect security interests granted pursuant to the Credit Documents and (c) approvals, consents, exemptions, authorizations, or other actions, notices or filings the failure to procure which would not reasonably be expected to have a Material Adverse Effect).

#### **6.04 Binding Effect.**

Each Credit Document has been duly executed and delivered by each Credit Party that is party hereto or thereto. Each Credit Document constitutes legal, valid and binding obligations of such Credit Party, enforceable against such Credit Party in accordance with its terms, except to the extent the enforceability thereof may be limited by

applicable Debtor Relief Laws affecting creditors' rights generally and by equitable principles of law (regardless of whether enforcement is sought in equity or at law) and implied covenants of good faith and fair dealing.

#### **6.05 Financial Statements.**

The audited combined balance sheets of the Borrower and its Subsidiaries as of December 31, 2007 and December 31, 2006 and the unaudited combined balance sheet as of March 31, 2008 and March 31, 2007 and, if the Funding Date is on or after August 31, 2008, June 30, 2008 and June 30, 2007, and the related combined statements of income or operations, shareholders' equity (or invested equity) and cash flows for the years ending December 31, 2007, December 31, 2006 and December 31, 2005 and the fiscal quarters ending March 31, 2008 and (solely

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with respect to the statements of income or operations and cash flows) March 31, 2007 and, if the Funding Date is on or after August 31, 2008, for the fiscal quarters ended June 30, 2008 and (solely with respect to the statements of income or operations and cash flows) June 30, 2007, including the notes thereto, (i) were prepared in accordance with GAAP consistently applied throughout the periods covered thereby, except as otherwise expressly noted therein and (ii) fairly present the financial condition of the Borrower and its Subsidiaries as of the date thereof and its results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein.

The unaudited pro forma condensed combined balance sheet of the Borrower and its Subsidiaries as at March 31, 2008, and, if the Funding Date is on or after August 31, 2008, June 30, 2008, and the related unaudited pro forma condensed combined statements of operations of the Borrower and its Subsidiaries for the three or, if the Funding Date is on or after August 31, 2008, six, months then ended and for the year ended December 31, 2007, certified by the chief financial officer or treasurer of the Borrower, copies of which have been furnished to each Lender, fairly present the combined pro forma financial condition of the Borrower and its Subsidiaries as at such date and the combined pro forma results of operations of the Borrower and its Subsidiaries for the periods ended on such dates, in each case giving effect to the Transactions, all in accordance with Regulation S-X under the Securities Laws, as amended and the Borrower believes that the assumptions underlying such unaudited pro forma combined financial statements are reasonable.

#### **6.06 No Material Adverse Effect**

Since December 31, 2007, there has been no event or circumstance, either individually or in the aggregate, that has had or would reasonably be expected to have a Material Adverse Effect (other than a Scheduled Matter, except for any development or change in any such Scheduled Matter after June 19, 2008 that would, in and of itself, have or could be reasonably expected to have a Material Adverse Effect).

#### **6.07 Litigation.**

There are no actions, suits or proceedings pending or, to the knowledge of the Borrower, threatened, at law, in equity, in arbitration or before any Governmental Authority, by or against any member of the Consolidated Group or against any of their properties or revenues that either individually or in the aggregate would reasonably be expected to have a Material Adverse Effect.

#### **6.08 No Default.**

No Default or Event of Default has occurred and is continuing or would result from the consummation of the transactions contemplated by this Credit Agreement or any other Credit Document.

#### **6.09 Ownership of Property; Liens**

Each of the Borrower and its Subsidiaries has good and valid 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 or

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right to use, all its other material property, except as would not reasonably be expected to have a Material Adverse Effect, and the property of the Consolidated Group is subject to no Liens, other than Permitted Liens.

#### **6.10 Taxes.**

Except as would not reasonably be expected, individually or in the aggregate to have a Material Adverse Effect: (a) the Borrower and each of its Subsidiaries (i) has timely filed (or has had filed on its behalf) all Tax returns required to be filed and (ii) has paid prior to delinquency all Taxes levied or imposed upon it or its properties, income or assets otherwise due and payable (including in its capacity as a withholding agent), except for Taxes that are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided, in accordance with GAAP, if such contest suspends enforcement or collection of the claim in question; (b) neither the Borrower nor any of its Subsidiaries is aware of any proposed or pending tax assessments, deficiencies or audits; and (c) neither the Borrower nor any of its Subsidiaries has "participated" in a "listed transaction" within the meaning of Treasury Regulation Section 1.6011-4.

#### **6.11 ERISA Compliance.**

(a) Each Pension Plan that is intended to qualify under Section 401(a) of the Internal Revenue Code has received a favorable determination letter from the IRS or an application for such a letter is currently pending before the IRS with respect thereto and, to the knowledge of the Borrower, nothing has occurred that would prevent, or cause the loss of, such qualification except in such instances in which the failure to comply therewith either individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect. The Borrower and each ERISA Affiliate have made all required contributions to each Pension Plan subject to Section 412 of the Internal Revenue Code, and no application for a funding waiver or an extension of any amortization period pursuant to Section 412 of the Internal Revenue Code has been made with respect to any Pension Plan except in such instances in which the failure to comply therewith either individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect.

(b) There are no pending or, to the knowledge of the Borrower, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that would be reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted or would reasonably be expected to result in a Material Adverse Effect.

(c) (i) No ERISA Event has occurred or is reasonably expected to occur; (ii) neither the Borrower nor any ERISA Affiliate has incurred, or reasonably expects to incur, any liability (and no event has occurred that, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Sections 4201 or 4243 of ERISA with respect to a Multiemployer Plan; and (iii) neither the Borrower nor any ERISA Affiliate has engaged in a transaction that would reasonably be expected to be subject to Sections 4069 or 4212(c) of ERISA which in the case of clause (i) through (iii) above, would reasonably be expected to have a Material Adverse Effect.

**6.12 Subsidiaries.**

After giving effect to any modifications or updates pursuant to the last sentence of this Section 6.12, set forth on Schedule 6.12 is a list of all Subsidiaries of the Borrower immediately after giving effect to the consummation of the Spin-Off, together with the jurisdiction of organization, classes of Capital Stock and ownership and ownership percentages of each such Subsidiary as of such date. After giving effect to any modifications or updates pursuant to the last sentence of this Section 6.12, Schedule 6.12 identifies the Subsidiaries that shall be parties to the Pledge Agreement and Security Agreement after giving effect to the consummation of the Spin-Off. The outstanding Capital Stock has been validly issued, is owned free of Liens (other than Permitted Liens), and with respect to any outstanding shares of Capital Stock of a corporation, such shares have been validly issued and are fully paid and non-assessable. The outstanding shares of Capital Stock are not subject to any buy-sell, voting trust or other shareholder agreement except as identified on Schedule 6.12. The Borrower, may on or prior to the Funding Date, provide information from time to time to modify and update the information set forth on Schedule 6.12 in a manner reasonably satisfactory to the Administrative Agent.

**6.13 Margin Regulations: Investment Company Act**

(a) The Credit Parties are not engaged and will not engage, principally or as one of their important activities, in the business of purchasing or carrying “margin stock” (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying margin stock.

(b) None of the Credit Parties or any Subsidiary is or is required to be registered as an “investment company” under the Investment Company Act of 1940.

**6.14 Disclosure.**

No written report, financial statement, certificate or other information (taken as a whole) furnished by or on behalf of any Credit Party to the Administrative Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Credit Agreement or delivered hereunder or under any other Credit Document (in each case, as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, in each case as of the date such information is provided and as of the Closing Date and the Funding Date; provided that, with respect to projected financial information and estimates, the Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time.

**6.15 Compliance with Laws.**

Each member of the Consolidated Group is in compliance in all material respects with the requirements of all Laws and all orders, writs, injunctions, settlements or other agreements with any Governmental Authority and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply

therewith, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

**6.16 Solvency.**

As of the Funding Date, the Borrower and its Subsidiaries, on a consolidated basis, are, and after giving effect to the Transactions will be, Solvent.

**6.17 Intellectual Property; Licenses, Etc.**

Except as would not reasonably be expected to have a Material Adverse Effect, as of the Funding Date, each member of the Consolidated Group owns, or possesses the right to use, all of the trademarks, service marks, trade names, copyrights, patents, patent rights, franchises, licenses and other intellectual property rights (collectively, “IP Rights”) that are reasonably necessary for the operation of their respective businesses, without conflict with the rights of any other Person. As of the Funding Date, no claim or litigation regarding any of the foregoing is pending or, to the knowledge of the Credit Parties, threatened, that, either individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect.

**6.18 Security Agreement.**

The security interest granted pursuant to the Security Agreement (i) will constitute a valid and perfected security interest in the Collateral (as to which perfection may be obtained by the filings or other actions described in clause (A), (B) or (C) of this Section 6.18) in favor of the Collateral Agent, for the benefit of the holders of the Obligations, as collateral security for the Obligations, upon (A) the filing of all financing statements naming each Grantor as “debtor” and the Collateral Agent as “secured party” and describing the Collateral in the applicable filing offices, (B) delivery of all Instruments, Chattel Paper and negotiable Documents to the Collateral Agent and (C) completion of the filing, registration and recording of a fully executed agreement in the form of the Security Agreement (or a supplement thereto) and containing a description of all Collateral constituting intellectual property in the United States Patent and Trademark Office within the three month period (commencing as of the date hereof) or, in the case of Collateral constituting intellectual property acquired after the date hereof, thereafter pursuant to 35 USC § 261 and 15 USC § 1060 and the regulations thereunder with respect to United States Patents and United States registered Trademarks and in the United States Copyright Office within the one month period (commencing as of the date hereof) or, in the case of Collateral constituting intellectual property acquired after the date hereof, thereafter with respect to United States registered Copyrights pursuant to 17 USC § 205 and the regulations thereunder and otherwise as may be required pursuant to the laws of any other necessary jurisdiction to the extent that a security interest may be perfected by such filings, registrations and recordings, and (ii) are prior to all other Liens on the Collateral other than Liens permitted by Section 8.01. Unless otherwise specified in this Credit Agreement, solely with respect to this Section 6.18 capitalized terms used and not otherwise defined in this Credit Agreement shall have the meanings provided in the Security Agreement.

**6.19 Pledge Agreement.**

The Pledge Agreement is effective to create in favor of the Collateral Agent, for the ratable benefit of the holders of the Obligations, a legal, valid and enforceable security interest in the Collateral identified therein, except to the extent the enforceability thereof may be limited by applicable Debtor Relief Laws affecting creditors’ rights generally and by equitable principles of law (regardless of whether enforcement is sought in equity or at law) and the Pledge Agreement shall create a fully perfected first priority Lien on, and security interest in, all right, title and interest of the pledgors thereunder in such Collateral, in each case prior and superior in right to any other Lien other than Permitted Liens (i) with respect to any such Collateral that is a “security” (as such term is defined in the UCC) and is evidenced by a certificate, when such Collateral is delivered to the Collateral Agent with duly executed stock powers with respect thereto, (ii) with respect to any such Collateral that is a “security” (as such term is defined in

the UCC) but is not evidenced by a certificate, when UCC financing statements in appropriate form are filed in the appropriate filing offices in the jurisdiction of organization of the pledgor or when "control" (as such term is defined in the UCC) is established by the Collateral Agent over such interests in accordance with the provision of Section 8-106 of the UCC, or any successor provision, and (iii) with respect to any such Collateral that is not a "security" (as such term is defined in the UCC) (to the extent perfection of a Lien in such Collateral can be obtained by filing UCC financing statements), when UCC financing statements in appropriate form are filed in the appropriate filing offices in the jurisdiction of organization of the pledgor.

#### **6.20 Mortgages.**

Upon the execution and delivery thereof, each of the Mortgages will be effective to create in favor of the Collateral Agent, for the ratable benefit of the holders of the Obligations, a legal, valid and enforceable security interest in the Mortgaged Properties identified therein in conformity with applicable Law, except to the extent the enforceability thereof may be limited by applicable Debtor Relief Laws affecting creditors' rights generally and by equitable principles of law (regardless of whether enforcement is sought in equity or at law) and, when the Mortgages and UCC financing statements in appropriate form are duly recorded at the appropriate offices, and recording or similar taxes, if any, are paid, the Mortgages shall constitute a fully perfected first priority Lien on, and security interest in, all right, title and interest of the grantors thereunder in such Mortgaged Properties, in each case prior and superior in right to any other Lien (other than Permitted Liens).

### **ARTICLE VII AFFIRMATIVE COVENANTS**

Until the Loan Obligations shall have been paid in full or otherwise satisfied, and the Commitments hereunder shall have expired or been terminated, the Borrower will, and will cause each of its Subsidiaries to:

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#### **7.01 Financial Statements.**

Deliver to the Administrative Agent and each Lender:

(a) as soon as available, but in any event within ten (10) days of the date the Borrower is required to file its Form 10-K with the SEC and in any event not later than ninety (90) days after the end of each fiscal year of the Borrower, a consolidated balance sheet of the Borrower and the Consolidated Group as at the end of such fiscal year, and the related consolidated statements of income or operations, shareholders' equity and cash flows for such fiscal year setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, audited and accompanied by (i) a report and opinion of a Registered Public Accounting Firm of nationally recognized standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards and applicable Securities Laws and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit or other material qualification or exception, (ii) if otherwise prepared by the Borrower in the ordinary course of its business, an unaudited consolidating balance sheet of the Borrower (limited to the "HSN" and "Cornerstone" businesses) as at the end of such fiscal year, and a related unaudited consolidating statement of income or operations for such fiscal year, and (iii) if required by Section 404 of Sarbanes-Oxley, an attestation report of such Registered Public Accounting Firm as to the Borrower's internal controls pursuant to Section 404 of Sarbanes-Oxley; and

(b) as soon as available, but in any event within ten (10) days of the date the Borrower is required to file its Form 10-Q with the SEC and in any event not later than forty-five (45) days (or, solely in the case of the fiscal quarter of the Borrower ending June 30, 2008, 61 days) after the end of each of the first three (3) fiscal quarters of each fiscal year of the Borrower, (i) a consolidated balance sheet of the Borrower and the Consolidated Group as at the end of such fiscal quarter, and the related consolidated statements of income or operations, shareholders' equity and cash flows for such fiscal quarter and for the portion of the Borrower's fiscal year then ended, and (ii) if otherwise prepared by the Borrower in the ordinary course of its business, a consolidating balance sheet of the Borrower (limited to the "HSN" and "Cornerstone" businesses) as at the end of such fiscal quarter, and the related consolidating statements of income or operations, setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail and certified by a Responsible Officer of the Borrower as fairly presenting the financial condition, results of operations, shareholders' equity and cash flows of the Consolidated Group in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes; provided that, with respect to the fiscal quarter ended June 30, 2008, such financial statements may be presented on a basis consistent with the historical financial statements referred to in the first paragraph of Section 6.05.

As to any information contained in materials furnished pursuant to Section 7.02(c), the Borrower shall not be separately required to furnish such information under subsection (a) or (b) above, but

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the foregoing shall not be in derogation of the obligation of the Borrower to furnish the information and materials described in subsections (a) and (b) above at the times specified therein.

#### **7.02 Certificates; Other Information.**

Deliver to the Administrative Agent and each Lender:

(a) within five (5) Business Days following the delivery of the financial statements referred to in Section 7.01(a), a certificate of its independent certified public accountants certifying such financial statements and stating that in making the examination necessary therefor no knowledge was obtained of any Default or Event of Default with respect to financial covenants or, if any such Default or Event of Default shall exist, stating the nature and status of such event (which may be limited to the extent consistent with industry practice or the policy of the accounting firm);

(b) within five (5) Business Days following each delivery of the financial statements referred to in Sections 7.01(a) and (b), a duly completed Compliance Certificate signed by a Responsible Officer of the Borrower (i) commencing with the fiscal quarter ended September 30, 2008, setting forth computations in reasonable detail satisfactory to the Administrative Agent demonstrating compliance with the financial covenants contained herein, (ii) certifying that no Default or Event of Default exists as of the date thereof (or the nature and extent thereof and proposed actions with respect thereto), (iii) setting forth a list of each Subject Disposition and Involuntary Disposition effected during the fiscal quarter or fiscal year, as the case may be, covered by such financial statements, to the extent the Net Cash Proceeds received in such Subject Disposition (or series of related Subject Dispositions) or Involuntary Disposition (or series of related Involuntary Dispositions) exceed \$5.0 million or the Net Cash Proceeds received in all Subject Dispositions or Involuntary Dispositions effected during such fiscal year exceeds \$10.0 million (or the elapsed portion of such fiscal year in the case of a Compliance Certificate relating to a fiscal quarter), and whether the Borrower and its Subsidiaries intend to reinvest the Net Cash Proceeds thereof or to use such Net Cash Proceeds to prepay the Loans and (iv) a calculation of the Cumulative Credit (in reasonable detail) as of the last day of the period covered by such financial statements;

(c) copies of all annual, regular, periodic and special reports and registration statements that the Borrower may file with the SEC under Section 13 or 15(d) of the Securities Exchange Act of 1934, and not otherwise required to be delivered to the Administrative Agent pursuant hereto;

(d) promptly, such additional information regarding the business, financial or corporate affairs of any Credit Party or any Subsidiary of a Credit Party, or compliance with the terms of the Credit Documents, as the Administrative Agent or any Lender (acting through the Administrative Agent) may from time to time reasonably request;

(e) promptly after the furnishing thereof, copies of any material financial statement or report furnished to any holder of material Indebtedness of any Credit Party or of any of its Subsidiaries pursuant to the terms of any indenture, loan or credit or similar

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agreement and not otherwise required to be furnished to the Lenders pursuant to Section 7.01 or any other clause of this Section 7.02;

(f) as soon as available, but in any event no more than sixty (60) days following the beginning of each fiscal year of the Borrower, annual expense budgets of the Borrower and its Subsidiaries on a consolidated basis, for such fiscal year of the Borrower; and

(g) Within 15 Business Days after the date of any Major Disposition, the Borrower shall notify the Administrative Agent thereof and whether and to what extent the Net Cash Proceeds received therefrom is intended to be used to reinvest or make prepayments pursuant to Section 2.06(b)(ii).

Documents required to be delivered pursuant to Sections 7.01 or 7.02 may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower posts such documents, or provides a link thereto on the Borrower's website on the internet at the website address listed on Schedule 11.02; 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) including, to the extent the Lenders and the Administrative Agent have access thereto and such documents are available thereon, the EDGAR database and sec.gov; provided that the Borrower shall notify (which may be by facsimile or electronic mail) the Administrative Agent of the posting of any such documents. Except for such Compliance Certificates, the Administrative Agent shall have no obligation to request the delivery or to maintain copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

The Credit Parties hereby acknowledge that the Administrative Agent, BAS and/or MLPF&S will make available to the Lenders and each L/C Issuer materials and/or information provided by or on behalf of the Credit Parties hereunder (collectively, the "Credit Party Materials") by posting the Credit Party Materials on IntraLinks or another similar electronic system (the "Platform") and that certain of the Lenders may be "public-side" Lenders (i.e., Lenders that do not wish to receive material non-public information with respect to the Credit Parties or their securities) (each, a "Public Lender"). The Credit Parties hereby agree that so long as any Credit Party 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 (1) all Credit Party 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), or otherwise indicated to the Administrative Agent as being "PUBLIC"; (2) by marking or otherwise indicating the Credit Party Materials "PUBLIC," the Credit Parties shall be deemed to have authorized the Administrative Agent, BAS, MLPF&S and each L/C Issuer and the Lenders to treat such Credit Party Materials as not containing any material non-public information with respect to the Credit Parties or their securities for purposes of United States federal and state securities laws (provided, however, that to the extent such Credit Party Materials constitute Information, they shall be treated as set forth in Section 11.07);

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(3) all Credit Party Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated as "Public Investor"; and (4) the Administrative Agent, BAS and MLPF&S shall be entitled to treat any Credit Party Materials that are not marked or otherwise indicated "PUBLIC" as being suitable only for posting on a portion of the Platform not marked as "Public Investor."

#### **7.03 Notification.**

Promptly, and in any event within two Business Days after any Responsible Officer of the Borrower or any of its material Subsidiaries obtains knowledge thereof, notify the Administrative Agent and each Lender of:

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

(b) the filing or commencement of any litigation, investigation or proceeding affecting any Credit Party which would reasonably be expected to have a Material Adverse Effect.

#### **7.04 Preservation of Existence.**

Except as otherwise permitted hereunder, do all things necessary to preserve and keep in full force and effect (x) its existence and (y) its rights, franchises and authority, except (i) to the extent, in the case of clauses (x) (with respect to any Subsidiary only and not the Borrower) and (y), that the failure to do so would not have a Material Adverse Effect, (ii) with respect to any Subsidiary only and not the Borrower, to the extent otherwise permitted by Section 8.04 hereof, and (iii) for the liquidation or dissolution of Subsidiaries if the assets of such Subsidiaries, to the extent such assets exceed estimated liabilities, are acquired by the Borrower or a Wholly Owned Subsidiary of the Borrower in such liquidation or dissolution; provided that Subsidiaries that are Guarantors may not be liquidated into Subsidiaries that are not Guarantors.

#### **7.05 Payment of Taxes and Other Obligations**

(a) Pay and discharge (i) all Taxes imposed upon it, or upon its income or profits, or upon any of its properties, before they become delinquent, (ii) all lawful claims (including claims for labor, material and supplies) that, if unpaid, might give rise to a Lien upon any of its properties, and (iii) except as prohibited hereunder, all of its other Indebtedness as it becomes due, except in each case to the extent that the failure to do so would not, individually or in the aggregate, have a Material Adverse Effect; provided that no such Person shall be required to pay any amount that is being contested in good faith by appropriate proceedings and for which adequate reserves, determined in accordance with GAAP, have been established, if such contest suspends enforcement or collection of the claim in question.

(b) Timely and correctly file all Tax returns required to be filed by it, except for failures to file that would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

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#### **7.06 Compliance with Law.**

Comply with the requirements of all applicable laws, rules, regulations and orders of any Governmental Authority, a breach of which would result in a Material Adverse Effect, except where contested in good faith by appropriate proceedings diligently pursued.

#### **7.07 Maintenance of Property.**

Maintain and preserve its material properties and equipment in good repair, working order and condition, normal wear and tear and casualty and condemnation excepted, and make all repairs, renewals, replacements, extensions, additions, betterments and improvements thereto as may be necessary or proper, to the extent and in the manner customary for similar businesses.

#### **7.08 Insurance.**

(a) Maintain at all times in force and effect insurance in such amounts, covering such risks and liabilities and with such deductibles or self-insurance retentions as determined by the Borrower in its reasonable business judgment. The Collateral Agent shall be named as loss payee, additional insured and/or mortgagee, as its interests may appear, with respect to any such insurance providing coverage in respect of any collateral under the Collateral Documents, and the Borrower shall request that each provider of any such insurance to agree, by endorsement upon the policy or policies issued by it or by independent instruments furnished to the Collateral Agent, that it will give the Collateral Agent thirty (30) days' prior written notice before any such policy or policies shall be altered in any material respect or canceled, and that no act or default of any member of the Consolidated Group or any other Person shall affect the rights of the Collateral Agent or the Lenders under such policy or policies. The insurance coverage for the Consolidated Group as of the Funding Date is described as to type and amount on Schedule 7.08 (which schedule, for the avoidance of doubt, shall be delivered to the Administrative Agent on or prior to the Funding Date).

(b) If any portion of any Mortgaged Property is at any time located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a Special Flood Hazard Area with respect to which flood insurance has been made available under the National Flood Insurance Act of 1968 (as now or hereafter in effect or successor act thereto), then the Borrower shall, or shall cause each Credit Party to (i) maintain, or cause to be maintained, with a financially sound and reputable insurer, flood insurance in an amount and otherwise sufficient to comply with all applicable rules and regulations promulgated pursuant to the Flood Insurance Laws and (ii) deliver to the Administrative Agent evidence of such compliance in form reasonably acceptable to the Administrative Agent.

#### **7.09 Books and Records.**

Maintain (a) proper books of record and account, in which true and correct entries in conformity with GAAP 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, and (b) such books of record and account in material conformity with all applicable requirements of any Governmental Authority having regulatory jurisdiction over the Borrower or such Subsidiary.

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#### **7.10 Inspection Rights.**

Permit representatives and independent contractors of the Administrative Agent or any Lender (in the case of such Lender, coordinated through the Administrative Agent) to (i) to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrower and (ii) visit and inspect any of its properties and examine its corporate, financial and operating records, once per fiscal year of the Borrower at such reasonable times during normal business hours, upon reasonable advance notice to the Borrower; provided, however, that when an Event of Default exists the Administrative Agent or any of its representatives or independent contractors or any Lender (in the case of such Lender, coordinated through the Administrative Agent) may do any of the foregoing at the expense of the Borrower at any time during normal business hours.

#### **7.11 Use of Proceeds.**

Use the proceeds of the Term Loans to fund the IAC Dividend and pay costs and expenses related to the Transactions (including entry into this Credit Agreement) and use the proceeds of the Revolving Loans for working capital and general corporate purposes (but in no event may any Revolving Loans fund any portion of the IAC Dividend, the Spin-Off, any transaction contemplated by Section 8.12 or any of the other Transactions or any costs or expenses relating thereto) (but, for the avoidance of doubt, proceeds of Revolving Loans may be used in respect of obligations relating to such transactions after the Spin-Off Date, including, for example, indemnification obligations or obligations relating to transition services), in each case not in contravention of any Law or of any Credit Document.

#### **7.12 Joinder of Subsidiaries as Guarantors.**

Promptly notify the Administrative Agent of the formation, acquisition (or other receipt of interests) or existence of any Domestic Subsidiary that is not a Guarantor (other than, a non-Wholly Owned Subsidiary invested in pursuant to Section 8.02(k) (unless such Subsidiary shall guarantee or provide Support Obligations in respect of any material Indebtedness (other than the Obligations) of the Borrower or another Subsidiary), or an Immaterial Subsidiary), which notice shall include information as to the jurisdiction of organization, the number and class of Capital Stock outstanding and ownership thereof (including options, warrants, rights of conversion or purchase relating thereto), and with respect to any such Subsidiary, within thirty (30) days, but in no event prior to the Spin-Off Date (or up to ten (10) days later if the Administrative Agent, in its sole discretion, shall agree thereto in writing) of the formation, acquisition or other receipt of interests thereof, cause the joinder of such Subsidiary as a Guarantor pursuant to Joinder Agreements (or such other documentation in form and substance reasonably acceptable to the Administrative Agent) accompanied by Organization Documents, take all actions necessary to create and perfect a security interest in its assets to the extent required by the Security Agreement or Pledge Agreement and, if reasonably requested by the Administrative Agent, deliver favorable opinions of counsel to such Subsidiary, in form and substance reasonably satisfactory to the Administrative Agent. For the avoidance of doubt, if an Immaterial Subsidiary shall become a Material Subsidiary, such Subsidiary shall thereupon comply with the foregoing.

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#### **7.13 Pledge of Capital Stock.**

From and after the Spin-Off Date, pledge or cause to be pledged to the Collateral Agent to secure the Obligations, other than in the case of Excluded Property: (a) one hundred percent (100%) of the issued and outstanding Capital Stock of each Domestic Subsidiary to the extent owned by a Credit Party within thirty (30) days (or up to ten (10) days later if the Administrative Agent, in its sole discretion, shall agree thereto in writing) of its formation, acquisition or other receipt of such interests and (b) Capital Stock representing sixty-five percent (65%) (or if less, the full amount owned by such Subsidiary) of each class of the issued and outstanding Capital Stock of each First-Tier Foreign Subsidiary to the extent owned by a Credit Party within thirty (30) days (or up to twenty (20) days later if the Administrative Agent, in its sole discretion, shall agree thereto in writing) of its formation, acquisition or other receipt of such interests, in each case pursuant to the Pledge Agreement or pledge joinder agreements, together with, if reasonably requested by the Administrative Agent, opinions of counsel and any filings and deliveries reasonably requested by the Collateral Agent in connection therewith to perfect the security interests therein, all in form and substance reasonably satisfactory to the Administrative Agent; provided that the Borrower shall not be required to deliver to the Collateral Agent opinions of foreign counsel or foreign-law pledge agreements with respect to the pledge of Capital Stock of any Foreign Subsidiary unless the Administrative Agent shall have reasonably requested such foreign counsel opinions or foreign-law pledge agreements (it being understood and agreed that the Administrative Agent shall not be entitled to request such foreign counsel opinions or foreign-law pledge agreements or the delivery of stock certificates with respect to any Subsidiary that, together with its Subsidiaries, generated less than \$2.0 million of Consolidated EBITDA for the four quarter period ending on the last day of the most recently

ended fiscal quarter at the end of which financial statements were required to have been delivered pursuant to Section 7.01(a) or (b) (or, prior to such first required delivery date for such financial statements, ending on the last day of the most recent period referred to in the first sentence of Section 6.05). It is further understood and agreed that even if such foreign counsel opinions, foreign law security agreements or stock certificates with respect to any Subsidiary shall not be required to be delivered to the Collateral Agent pursuant to the foregoing, the Capital Stock thereof shall nevertheless constitute Collateral, except to the extent constituting Excluded Property.

#### **7.14 Pledge of Other Property.**

With respect to each Credit Party, pledge and grant a security interest in all of its personal property, tangible and intangible, owned and leased (except (a) Excluded Property, (b) as otherwise set forth in Section 7.13 with respect to Capital Stock and (c) as otherwise set forth in the Collateral Documents) to secure the Obligations, within thirty (30) days (or up to ten (10) days later if the Administrative Agent, in its sole discretion, shall agree thereto in writing of the acquisition or creation thereof pursuant to such pledge and security agreements, joinder agreements or other documents as may be required, together with opinions of counsel and any filings and deliveries reasonably requested by the Collateral Agent in connection therewith to perfect the security interests therein, all in form and substance reasonably satisfactory to the Administrative Agent.

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#### **7.15 Further Assurances Regarding Collateral.**

(a) Promptly upon request by the Administrative Agent, or any Lender through the Administrative Agent, (a) correct any material defect or error relating to the granting or perfection of security interests that may be discovered in any Credit 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 the Required Lenders through the Administrative Agent, may reasonably require from time to time in order to (i) carry out more effectively the purposes of the Credit Documents, (ii) to the fullest extent permitted by applicable law, subject any Credit Party's or any Credit Party's Subsidiaries' properties, assets, rights or interests to the Liens now or hereafter intended to be covered by any of the Collateral Documents, (iii) perfect and maintain the validity, effectiveness and priority of any of the Collateral Documents and any of the Liens intended to be created thereunder and (iv) assure, convey, grant, assign, transfer, preserve, protect and confirm more effectively unto the holders of the Obligations the rights granted to the holders of the Obligations under any Credit Document or under any other instrument executed in connection with any Credit Document to which any Credit Party or any Credit Party's Subsidiaries is or is to be a party, and cause each of the Borrower's Subsidiaries to do so.

(b) In the event the Borrower or any other Credit Party acquires (i) a fee interest in any real property after the Closing Date (excluding Excluded Property) and such real property (together with any improvements thereon), when taken together with all contiguous parcels of real property interests (or other parcels of real property interests proximately located and used in connection therewith) then held by any Borrower or any other Credit Party, has a fair market value of at least \$2.5 million, or (ii) a leasehold interest in any real property after the Closing Date (excluding Excluded Property) and such leasehold interest, when taken together with all contiguous parcels of real property interests (or other parcels of real property interests proximately located and used in connection therewith) then held by any Borrower or any other Credit Party shall have a fair market value in excess of \$3.5 million, the Borrower shall promptly (x) notify the Administrative Agent of such acquisition and (y) deliver, or cause to be delivered within sixty (60) days (or up to fifteen (15) days later if the Administrative Agent, in its sole discretion, consents thereto in writing), to the Collateral Agent a fully executed Mortgage (subject to all Permitted Liens) over such real property in form and substance reasonably satisfactory to the Administrative Agent, together with such Title Insurance Policies, Surveys, appraisals (if required by law), "Life-of-Loan" flood hazard determinations, evidence of insurance (including, without limitation, flood insurance if required by Section 7.08(b)), legal opinions and other documents and certificates, in each case, in form and substance reasonably satisfactory to the Administrative Agent (or, in the case of the Mortgage, substantially in the form of Exhibit 1.01D hereto), as shall be reasonably requested by the Administrative Agent; provided that solely with respect to leasehold mortgages as described in clause (ii), the Borrower (x) shall only be required to use commercially reasonable efforts to obtain any such Mortgage and related documentation and only to the extent requested by the Administrative Agent and (y) shall not be required to make any economic concessions to obtain any such Mortgage.

(c) Notwithstanding anything to the contrary provided herein or in any Credit Document, the Borrower and the Subsidiaries shall not be required to take any action required to perfect

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or maintain the perfection of any of the Liens of the Agents or Lenders with respect to cash, deposit accounts or securities accounts except to the extent such perfection is achieved by filing of financing statements, although cash, deposit accounts and securities accounts shall nevertheless constitute Collateral.

#### **7.16 Post-Closing Matters.**

(a) The Borrower shall, no later than 3 Business Days after the Funding Date (or such later date as the Administrative Agent, in its sole discretion, shall agree to), provide to the Collateral Agent copies of insurance certificates or policies with respect to all insurance required to be maintained pursuant to the Credit Documents together with endorsements identifying the Collateral Agent as additional insured or loss payee, with respect to all insurance policies to be maintained with respect to the properties of the Borrower and its subsidiaries forming any part of the Collateral.

(b) The Borrower shall, or shall cause the applicable Credit Party to, no later than thirty (30) Business Days after the Funding Date (or up to ten (10) days later if the Administrative Agent, in its sole discretion, shall agree thereto in writing), provide the Collateral Agent, with respect to each Mortgaged Property:

(i) a Survey certificated to Collateral Agent and the Title Company;

(ii) endorsements to Title Policy delivered to the Collateral Agent insuring the Mortgage encumbering such Mortgaged Property, paid for by the Borrower or the applicable Credit Party, (1) eliminating the general or standard survey exceptions to the extent not previously eliminated but reading in any other exceptions shown on the Survey, (2) providing the comprehensive and survey endorsements thereto if request by the Collateral Agent, as well as any other endorsements reasonably requested by the Collateral Agent to the extent not previously provided which were omitted solely as a result of the applicable Credit Party's inability to obtain and deliver a Survey contemporaneously with said Title Policy and (3) otherwise amending the same so that the requirements set forth in clause (ii) of Section 5.02(d) are satisfied; provided, in no event shall the Title Policy or associated endorsements be required to endorse or eliminate exceptions that constitute Permitted Liens; and

(iii) an amendment (in form and substance reasonably acceptable to the Collateral Agent) to the Mortgage and fixture filing encumbering such Mortgaged Property amending the legal description therein, if necessary in the reasonable judgment of the Collateral Agent in light of the Survey delivered under this section (together with a modification endorsement to the Title Policy delivered to the Collateral Agent insuring the Mortgage encumbering such Mortgaged Property and opinions of local counsel with respect thereto to the extent necessary in the reasonable judgment of the Collateral Agent, in each case in form and substance reasonably acceptable to the Collateral Agent).

(c) With respect to each Mortgaged Property, Borrower will use, and will cause each applicable Credit Party to use, commercially reasonable efforts to obtain such consents, estoppels, tenant subordination agreements or other instruments as shall reasonably be deemed necessary



by the Collateral Agent as soon as reasonably practicable. No Credit Party shall be required to make any economic concessions to obtain any such consents, estoppels, tenant subordination agreements or other instruments.

(d) With respect to each location set forth on Schedule 7.16(d), Borrower shall, or shall cause the applicable Credit Party to provide, a Landlord Access Agreement as soon as reasonably practicable; *provided* that (i) no such Landlord Access Agreement shall be required with respect to any real property that has not been obtained after the Credit Party that is the lessee of such real property shall have used commercially reasonable efforts to do so and (ii) no Credit Party shall be required to make any economic concessions to obtain any such Landlord Access Agreement.

#### 7.17 FCC Licenses.

Cause each FCC License (other than two-way radio licenses) required for the Borrower and its Subsidiaries to conduct their businesses to be held by a License Subsidiary; *provided*, that, to the extent the same become Subsidiaries hereafter, Ventana Television Holdings, Inc. and Ventana Television, Inc. may conduct their operations in the ordinary course, consistent with past practice and may retain any FCC License held by such entities as of the date hereof and/or acquire future FCC Licenses of a similar nature or which are ancillary to the operations of Ventana Television Holdings, Inc. or Ventana Television, Inc.

### ARTICLE VIII

#### NEGATIVE COVENANTS

Until the Loan Obligations shall have been paid in full or otherwise satisfied, and the Commitments hereunder shall have expired or been terminated, the Borrower will not, and will not permit any of its Subsidiaries to:

#### 8.01 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 created pursuant to the Credit Documents;
- (b) Liens under the Collateral Documents given to secure obligations under Swap Contracts between any Credit Party and any Lender or Affiliate of a Lender or any Person that was a Lender or Affiliate of a Lender at the time it entered into such Swap Contract, *provided* that such Swap Contracts are otherwise permitted under Section 8.03;
- (c) Liens existing on the Closing Date and listed on Schedule 8.01, or, to the extent not so listed, Liens, which, when taken together with all other Liens existing on the Closing Date and not so listed, secure Indebtedness in an aggregate principal amount not exceeding \$5.0 million, in each case together with any extensions, replacements, modifications or renewals of the foregoing; *provided* that the collateral interests are not broadened or increased or secure any Property not secured by such Liens on the Closing Date

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(but shall be permitted to apply to after-acquired property affixed or incorporated into the property covered by such Lien and the proceeds and products of the foregoing);

- (d) Liens for taxes, assessments or governmental charges or levies not yet due or to the extent non-payment thereof is permitted under Section 7.05;
- (e) statutory Liens of landlords and Liens of carriers, warehousemen, mechanics, materialmen and suppliers and other Liens imposed by law or pursuant to customary reservations or retentions of title arising in the ordinary course of business, *provided* that such Liens secure only amounts not yet due and payable or, if due and payable, are unfiled and no other action has been taken to enforce the same, are not overdue by more than 30 days, or are being contested in good faith by appropriate proceedings for which adequate reserves determined in accordance with GAAP have been established (and as to which the property subject to any such Lien is not yet subject to a foreclosure, sale or loss proceeding on account thereof (other than a proceeding where foreclosure, sale or loss has been stayed));
- (f) Liens incurred or deposits made by any member of the Consolidated Group in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security, or to secure the performance of tenders, statutory obligations, bids, leases, government contracts, performance and return-of-money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money);
- (g) Liens in connection with attachments or judgments (including judgment or appeal bonds) that do not result in an Event of Default under Section 9.01(i);
- (h) easements, rights-of-way, covenants, conditions, restrictions (including zoning restrictions), declarations, rights of reverter (other than with respect to Mortgaged Property), minor defects or irregularities in title and other similar charges or encumbrances, whether or not of record, that do not, in the aggregate, interfere in any material respect with the ordinary course of business of the Borrower or its Subsidiaries, or in respect of any real property which is subject to a Mortgage, any title defects, liens, charges or encumbrances (other than such prohibited monetary Liens) which the Title Company is prepared to endorse or insure by exclusion or affirmative endorsement reasonably acceptable to the Administrative Agent and which is included in any Title Policy;
- (i) Liens on property of any Person securing purchase money and Sale and Leaseback Transaction Indebtedness (including capital leases and Synthetic Leases) of such Person, in each case to the extent incurred under Section 8.03(c) (or any refinancing of such Indebtedness incurred under Section 8.03(l)); *provided*, that any such Lien attaches only to the Property financed or leased and such Lien attaches prior to, at the time of or within one hundred eighty (180) days after the later of the date of acquisition of such property or the date such Property is placed in service (or, in the case of Liens securing a refinancing of such Indebtedness pursuant to Section 8.03(l), any such Lien attaches only to the Property that was so financed with the proceeds of the Indebtedness so refinanced);

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- (j) licenses, sublicenses, leases or subleases granted to others not interfering in any material respect with the business of any member of the Consolidated Group;
- (k) any interest or title of a lessor or sublessor under, and Liens arising from UCC financing statements (or equivalent filings, registrations or agreements in foreign jurisdictions) relating to, leases and subleases permitted by this Credit Agreement;

- (l) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods and Liens deemed to exist in connection with Investments in repurchase agreements that constitute Investments permitted by Section 8.02 hereof;
- (m) normal and customary rights of setoff upon deposits of cash or other Liens originating solely by virtue of any statutory or common law provision relating to bankers liens, rights of setoff or similar rights in favor of banks or other depository institutions not securing Indebtedness;
- (n) Liens of a collection bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection;
- (o) Liens on Property securing obligations incurred under Section 8.03(h) (or any refinancing of such obligations incurred under Section 8.03(l)); provided that the Liens are not incurred in connection with, or in contemplation or anticipation of, the acquisition and do not attach or extend to any Property other than the Property so acquired (or, in the case of Liens securing a refinancing of such obligations pursuant to Section 8.03(l), the Property acquired with the proceeds of the obligations so refinanced);
- (p) Other Liens in an aggregate amount not to exceed \$30.0 million;
- (q) Liens in respect of any Indebtedness incurred by a Foreign Subsidiary to the extent such Liens extend only to the Property of the Foreign Subsidiary or Foreign Subsidiaries incurring such Indebtedness;
- (r) pledges and deposits and other Liens securing liability for reimbursement or indemnification obligations of (including obligations in respect of bank guarantees for the benefit of) insurance carriers providing property, casualty or liability insurance to the Borrower or any Subsidiary;
- (s) Liens solely on any cash earnest money deposits made by the Borrower or any of the Subsidiaries in connection with any letter of intent or purchase agreement in respect of any Investment permitted hereunder;
- (t) Liens securing obligations incurred pursuant to Section 8.03(n);
- (u) Liens on Capital Stock in joint ventures securing obligations of such joint venture, to the extent required by the terms of the organizational documents or material contracts of such joint venture;

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- (v) Liens on goods or inventory the purchase, shipment or storage price of which is financed by a bank guarantee or bankers' acceptance issued or created for the account of the Borrower or any Subsidiary in the ordinary course of business so long as such Liens are extinguished when such goods or inventory are delivered to the Borrower or a Subsidiary; provided, that such Lien secures only the obligations of the Borrower or such Subsidiaries in respect of such bankers' acceptance or bank guarantee to the extent permitted under Section 8.03;
- (w) Liens securing insurance premiums financing arrangements, provided that such Liens are limited to the applicable unearned insurance premiums; and
- (x) Liens in favor of the Borrower or any Guarantor; provided that if any such Lien shall cover any Collateral, the holder of such Lien shall execute and deliver to the Administrative Agent a subordination agreement in form and substance reasonably satisfactory to the Administrative Agent.

## 8.02 Investments.

Make or permit to exist any Investments, except:

- (a) cash and Cash Equivalents of or to be owned by the Borrower or a Subsidiary;
- (b) Investments existing on, or contractually committed as of, the Closing Date and set forth on Schedule 8.02 and any extensions, renewals or reinvestments thereof, so long as the aggregate amount of any Investment pursuant to this clause (b) is not increased at any time above the amount of such Investment existing on the Closing Date, unless such increase is permitted by any clause of this Section 8.02 (other than by this clause (b)), in which case the capacity of such other clause shall be reduced by such increase;
- (c) to the extent not prohibited by applicable Law, advances to officers, directors and employees and consultants of the Borrower and Subsidiaries made for travel, entertainment, relocation and other ordinary business purposes in an aggregate amount not to exceed \$5.0 million at any time outstanding or, to the extent not used as part of or to increase the Cumulative Credit, in connection with such person's purchase of equity of the Borrower;
- (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 and any prepayments and other credits to suppliers, clients, developers or purchasers or sellers of goods or services made in the ordinary course of business;
- (e) except to the extent constituting an Acquisition, Investments by the Borrower and Domestic Subsidiaries in Domestic Credit Parties;

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- (f) [Reserved];
- (g) Investments by Foreign Subsidiaries in any member of the Consolidated Group (including other Foreign Subsidiaries);
- (h) Support Obligations incurred pursuant to Section 8.03;
- (i) Investments comprised of Permitted Acquisitions;
- (j) [Reserved];
- (k) Investments at any time outstanding in an aggregate amount not to exceed the greater of \$40.0 million and 1.0% of Consolidated Total Assets at such time plus, so long as (x) no Default shall have occurred and be continuing or exist after giving effect thereto and (y) after giving effect on a Pro Forma Basis to the Investment to be made, as of the last day of the most recently ended fiscal quarter at the end of which financial statements were required to have been delivered

pursuant to Section 7.01(a) or (b) (or, prior to such first required delivery date for such financial statements, as of the last day of the most recent period referred to in the first sentence of Section 6.05), the Borrower would be in compliance with Section 8.10, the amount of the Cumulative Credit at such time; (and if the Investment is greater than \$15.0 million, then the Borrower shall deliver a certificate of a Responsible Officer as to the satisfaction of the requirements in this clause (y)); provided that if any Investment is made pursuant to this Section 8.02(k) in any Person that is not a Domestic Credit Party and such Person thereafter becomes a Domestic Credit Party, such Investment shall thereafter be deemed to have been made pursuant to Section 8.02(e);

- (l) Investments representing non-cash consideration received in connection with any Subject Disposition permitted pursuant to Section 8.05;
- (m) Investments contemplated by Section 8.12;
- (n) Swap Contracts allowed by Section 8.03(d);
- (o) Investments resulting from pledges and deposits under Section 8.01(f), (l) or (r);
- (p) Investments received in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with or judgments against, customers and suppliers, in each case in the ordinary course of business or Investments acquired by the Borrower as a result of a foreclosure by the Borrower or any of the Subsidiaries with respect to any secured Investments or other transfer of title with respect to any secured Investment in default;
- (q) loans or advances or other similar transactions with customers, distributors, clients, developers, suppliers or purchasers or sellers of goods or services, in each case, in the ordinary course of business, regardless of frequency;

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- (r) to the extent not used as part of or increasing the Cumulative Credit, any Investment procured solely in exchange for the issuance of Qualified Capital Stock;
  - (s) Investments to the extent consisting of the redemption, purchase, repurchase or retirement of any common Capital Stock permitted under Section 8.06;
  - (t) advances in the form of a prepayment of expenses, so long as such expenses are being paid in accordance with customary trade terms of the Borrower or such Subsidiary;
  - (u) Investments by Borrower and its Subsidiaries if the Borrower or any other Subsidiary would otherwise be permitted to make a Restricted Payment in such amount to such Person under Section 8.06(f) (provided that the amount of any such Investment shall also be deemed to be a Restricted Payment under such clause for all purposes of the Credit Documents);
  - (v) guarantees by the Borrower or any Subsidiary of operating leases or of other obligations that do not constitute Indebtedness, in each case entered into by the Borrower or any Subsidiary in the ordinary course of business;
  - (w) Investments consisting of the non-exclusive licensing of intellectual property pursuant to joint marketing arrangements with other Persons otherwise permitted hereunder; and
  - (x) Investments by the Borrower or any Guarantor in any Foreign Subsidiary consisting solely of (x) the contribution or other Disposition of Capital Stock or Indebtedness of any other Foreign Subsidiary held directly by the Borrower or such Guarantor in exchange for Indebtedness, Capital Stock (or additional share premium or paid in capital in respect of Capital Stock) or a combination thereof of the Foreign Subsidiary to which such contribution is made or (y) an exchange of Capital Stock of such Foreign Subsidiary for Indebtedness of such Foreign Subsidiary.

### 8.03 Indebtedness.

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

- (a) Indebtedness existing or arising under this Credit Agreement and the other Credit Documents;
- (b) The Existing Letters of Credit and Indebtedness (other than the Existing Letters of Credit) existing on the Closing Date set forth on Schedule 8.03 or, to the extent not listed on Schedule 8.03, the aggregate principal amount of which, when taken with all other Indebtedness existing on the Closing Date and not so listed, does not exceed \$5.0 million;
- (c) capital lease obligations and purchase money Indebtedness (including obligations in respect of capital leases) to finance the purchase or acquisition of fixed assets, at any time outstanding (when aggregated with the aggregate amount of refinancing

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Indebtedness outstanding at such time pursuant to Section 8.03(l) in respect of Indebtedness incurred pursuant to this Section 8.03(c) not to exceed the greater of \$40.0 million and 1.0% of Consolidated Total Assets; provided that such Indebtedness when incurred shall not exceed the purchase price of the asset(s) financed;

- (d) obligations under Swap Contracts entered into to manage existing or anticipated risks and not for speculative purposes;
- (e) unsecured intercompany Indebtedness among members of the Consolidated Group to the extent permitted by Section 8.02(e), (g) or (x);
- (f) unsecured Indebtedness of the Borrower to the extent (i) no Default or Event of Default has occurred and is continuing or would result from the incurrence thereof at such time; (ii) after giving pro forma effect to the incurrence of such Indebtedness, as of the last day of the most recently ended fiscal quarter at the end of which financial statements were required to have been delivered pursuant to Section 7.01(a) or (b) (or, prior to such first required delivery date for such financial statements, as of the last day of the most recent period referred to in the first sentence of Section 6.05), the Borrower would be in compliance with Section 8.10 (and if the Indebtedness incurred is greater than \$15.0 million, then the Borrower shall deliver a certificate of a Responsible Officer as to the satisfaction of the requirements in this clause (ii)); (iii) such Indebtedness matures no earlier than the Term Loans and has a Weighted Average Life to Maturity that is no shorter than the Term Loans; (iv) such Indebtedness does not have prepayment or redemption events that are less favorable to the Borrower and its Subsidiaries than those relating to the Term Loans; and (v) such Indebtedness has other terms that are, taken as a whole, not materially less favorable to the Borrower and its Subsidiaries than the terms of the Credit Agreement; provided that such Indebtedness may benefit from unsecured guarantees from the Guarantors on the same basis as the Borrower has issued such Indebtedness;

(g) [Reserved];

(h) Indebtedness acquired or assumed pursuant to a Permitted Acquisition in an aggregate principal amount at any time outstanding (when aggregated with the aggregate amount of refinancing Indebtedness outstanding at such time pursuant to Section 8.03(l)) in respect of Indebtedness incurred pursuant to this Section 8.03(h)) not to exceed \$25.0 million; provided that (a) such Indebtedness was not incurred in connection with, or in anticipation or contemplation of, such Permitted Acquisition and (b) after giving pro forma effect to the incurrence of such Indebtedness, as of the last day of the most recently ended fiscal quarter at the end of which financial statements were required to have been delivered pursuant to Section 7.01(a) or (b) (or, prior to such first required delivery date for such financial statements, as of the last day of the most recent period referred to in the first sentence of Section 6.05), the Borrower would be in compliance with Section 8.10;

(i) Indebtedness arising under any performance or surety bond, completion bond or similar obligation entered into in the ordinary course of business consistent with past practice;

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(j) Indebtedness of the Borrower and its Subsidiaries (and guarantees thereof, without duplication) not contemplated in the foregoing clauses of this Section 8.03 in an aggregate principal amount at any time outstanding not to exceed the greater of \$40.0 million and 1.0% of Consolidated Total Assets at such time;

(k) Indebtedness incurred under the Senior Notes and guarantees by the Guarantors thereof;

(l) any refinancing of Indebtedness incurred pursuant to Section 8.03(b), (c), (f), (h) or (k) so long as (i) if the Indebtedness being refinanced is Subordinated Debt, then such refinancing Indebtedness shall be at least as subordinated in right of payment and otherwise to the Obligations as the Indebtedness being refinanced, (ii) the principal amount of the refinancing Indebtedness is not greater than the principal amount of the Indebtedness being refinanced, together with any premium paid, and accrued interest and reasonable fees in connection therewith thereon and reasonable costs and expenses incurred in connection therewith, (iii) the final maturity and Weighted Average Life to Maturity of the refinancing Indebtedness is not earlier or shorter, as the case may be, than the Indebtedness being refinanced, (iv) no Subsidiary (other than a Credit Party) that is not an obligor with respect to the Indebtedness to be refinanced shall be an obligor with respect to the refinancing Indebtedness and (v) the material terms (other than as to interest rate, which shall be on then market terms) of the refinancing Indebtedness taken as a whole are at least as favorable to the Consolidated Group and the Lenders as under the Indebtedness being refinanced;

(m) overdrafts paid within 5 Business Days;

(n) Indebtedness in respect of trade letters of credit, warehouse receipts or similar instruments issued to support performance obligations (other than obligations in respect of Indebtedness) in the ordinary course of business; provided that the aggregate stated amount of any such trade letters of credit, warehouse receipts or similar instruments shall not exceed, as of the date of issuance, amendment or extension thereof, \$75.0 million minus the aggregate L/C Obligations outstanding on such date; provided further that Indebtedness in respect of any such trade letter of credit may not be incurred pursuant to this Section 8.03(n) unless (x) such trade letter of credit is not denominated in an Approved Currency and (y) such trade letter of credit is either (A) issued in and utilized with respect to a jurisdiction in which no L/C Issuer has any obligation to provide Letters of Credit pursuant to application of Section 2.03(a)(ii)(A) or (B) or (B) issued under circumstances in which no L/C Issuer is otherwise able to provide a reasonably satisfactory Letter of Credit;

(o) Indebtedness supported by a Letter of Credit, in a principal amount not in excess of the stated amount of such Letter of Credit;

(p) Indebtedness consisting of (i) the financing of insurance premiums or (ii) take or pay obligations contained in supply arrangements, in each case, in the ordinary course of business;

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(q) Indebtedness representing deferred compensation to employees of the Borrower or any Subsidiary incurred in the ordinary course of business;

(r) [Reserved];

(s) Indebtedness consisting of obligations of the Borrower or any Subsidiary under deferred compensation, indemnification, adjustment of purchase or acquisition price or other similar arrangements incurred by such Person in connection with the Transactions and Permitted Acquisitions or any other Investment expressly permitted hereunder;

(t) all premium (if any), interest (including post petition interest), fees, expenses, charges and additional or contingent interest on obligations described in paragraphs (a) through (s) above; and

(u) Support Obligations by any member of the Consolidated Group in respect of Indebtedness incurred under subsections (a) through (t) of this Section 8.03, solely to the extent such member of the Consolidated Group would have itself been able to originally incur such Indebtedness.

#### **8.04 Mergers and Dissolutions.**

(a) Enter into a transaction of merger or consolidation, except that:

(i) a Domestic Subsidiary of the Borrower may be a party to a transaction of merger or consolidation with the Borrower or another Domestic Subsidiary of the Borrower; provided that if the Borrower is a party to such transaction, the Borrower shall be the surviving Person; provided, further that if the Borrower is not a party to such transaction but a Guarantor is, such Guarantor shall be the surviving Person or the surviving Person shall become a Guarantor immediately upon the consummation of such transaction;

(ii) a Foreign Subsidiary may be party to a transaction of merger or consolidation with the Borrower or a Subsidiary of the Borrower; provided that (A) if the Borrower is a party thereto, it shall be the surviving entity, (B) if a Guarantor is a party thereto, it shall be the surviving Person or the surviving Person shall become a Guarantor immediately following the consummation of such transaction, and (C) if a Foreign Subsidiary is a party thereto and a Domestic Subsidiary is not a party thereto, the surviving entity shall be a Foreign Subsidiary and the Borrower and its Subsidiaries shall be in compliance with the requirements of Section 7.13;

(iii) a Subsidiary may enter into a transaction of merger or consolidation in connection with a Subject Disposition effected pursuant to Section 8.05, so long as no more assets are Disposed of as a result of or in connection with any transaction undertaken pursuant to this clause (iii) than would otherwise have been allowed pursuant to Section 8.05;

(iv) mergers and consolidations contemplated by Section 8.12 shall be permitted; and

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(v) the Borrower or any Subsidiary may merge with any other Person in connection with an Investment permitted pursuant to Section 8.02 so long as the continuing or surviving Person shall be a Subsidiary, which shall be a Guarantor if the merging Subsidiary was a Guarantor and which together with each of its Subsidiaries shall have complied with the requirements of Section 7.12; provided, that following any such merger or consolidation involving the Borrower, the Borrower is the surviving Person.

(b) Except in connection with a transaction permitted by Section 8.04(a)(i), the Borrower will not dissolve, liquidate or wind up its affairs.

#### **8.05 Dispositions.**

Make any Subject Disposition or Specified Intercompany Transfer, unless (i) in the case of a Subject Disposition only, at least seventy-five percent (75%) of the consideration received from each such Subject Disposition is cash or Cash Equivalents, (ii) such Subject Disposition or Specified Intercompany Transfer is made at fair market value and (iii) the aggregate amount of Property so Disposed (valued at fair market value thereof) in all Subject Dispositions and Specified Intercompany Transfers in any fiscal year of the Borrower does not exceed \$75.0 million; provided that any amount not used in any such fiscal year may be carried forward and used in the two immediately succeeding fiscal years of the Borrower (but no other fiscal years).

#### **8.06 Restricted Payments.**

Declare or make, directly or indirectly, any Restricted Payment, except that:

(a) each Subsidiary may make Restricted Payments to the Borrower or any Wholly Owned Subsidiary, or in the case of a Subsidiary that is not a Wholly Owned Subsidiary, to each equity holder of such Subsidiary on a pro rata basis (or on more favorable terms from the perspective of the Borrower and its Wholly Owned Subsidiaries), based on their relative ownership interests or, solely to the extent required by law and involving de minimis amounts, on a non-pro rata basis to such equity holders;

(b) Restricted Payments contemplated by Section 8.12 shall be permitted.

(c) any refinancing permitted pursuant to Section 8.03(l) shall be permitted;

(d) [Reserved];

(e) the Borrower may declare and make payments in respect of the IAC Dividend on or about the Funding Date;

(f) the Borrower may make Restricted Payments at any time in an aggregate amount not to exceed the greater of \$40.0 million and 1.0% of Consolidated Total Assets plus if (i) as of the last day of the most recently ended fiscal quarter at the end of which financial statements were required to have been delivered pursuant to Section 7.01(a) or (b) (or, prior to such first required delivery date for such financial statements, as of the last day of the most recent period referred to in the first sentence of Section 6.05), (x) the Borrower would be in compliance with Section 8.10 and (y) the Consolidated Total

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Leverage Ratio would not be in excess of 2.25:1.00 (and if the Restricted Payment is greater than \$15.0 million, then the Borrower shall deliver a certificate of a Responsible Officer as to the satisfaction of the requirements in this clause (i)) and (ii) no Default shall have occurred and be continuing or exist after giving effect thereto, the amount of the Cumulative Credit at such time;

(g) the Borrower may make payments or prepayments of principal on, or redemptions, repurchases or acquisitions for value of, its Indebtedness (other than Subordinated Indebtedness) that is not secured by a Lien (x) in an aggregate principal amount for all such payments, prepayments, redemptions, repurchases and acquisitions not to exceed \$50.0 million or (y) at any time following the date that no Term Loans or Incremental Term Loans are outstanding;

(h) to the extent not used as part of or increasing the Cumulative Credit, the Borrower may purchase, redeem or otherwise acquire shares of its common Capital Stock with the proceeds received from the substantially concurrent issue of new shares of its common Capital Stock;

(i) the members of the Consolidated Group may prepay or repay intercompany Indebtedness otherwise permitted hereunder owed to other members of the Consolidated Group; and

(j) repurchases of Capital Stock deemed to occur upon the "cashless exercise" of stock options or warrants or upon the vesting of restricted stock units if such Capital Stock represents the exercise price of such options or warrants or represents withholding taxes due upon such exercise or vesting.

#### **8.07 Change in Nature of Business.**

Engage in any material line of business other than a Permitted Business

#### **8.08 Change in Accounting Practices or Fiscal Year.**

Change its (a) accounting policies or reporting practices, except as required by GAAP, or (b) fiscal year of the Borrower or any Subsidiary, in each case without prior written notice to the Administrative Agent and the Lenders.

#### **8.09 Transactions with Affiliates.**

Enter into any transaction of any kind with any Affiliate of the Borrower (other than between or among (x) the Borrower and/or one or more Guarantors or (y) one or more Subsidiaries of the Borrower that are not Guarantors), whether or not in the ordinary course of business, other than (i) on fair and reasonable terms substantially as favorable in all material respects to the Borrower or the applicable 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, (ii) Restricted Payments permitted by Section 8.06 (other than Section 8.06(c)), (iii) Investments permitted by Section 8.02 (c), (g), (u) or (x) or, to the extent that such transaction is with a Person that becomes an Affiliate of the Borrower or a Subsidiary solely as a result of such transaction,

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any transaction pursuant to Section 8.02(i) or (k) and (iv) transactions contemplated by Section 8.12 shall be permitted.

#### 8.10 Financial Covenants.

- (a) Consolidated Total Leverage Ratio. Permit the Consolidated Total Leverage Ratio as of the last day of any fiscal quarter to be greater than 2.75:1.00.
- (b) Consolidated Interest Coverage Ratio. Permit the Consolidated Interest Coverage Ratio as of the last day of any fiscal quarter to be less than 3.00:1.00.

#### 8.11 Limitation on Subsidiary Distributions.

Directly or indirectly, create or otherwise cause or suffer to exist or become effective any encumbrance or restriction on the ability of any Subsidiary to (a) pay dividends or make any other distributions on its capital stock or any other interest or participation in its profits owned by the Borrower or any Subsidiary, or pay any Indebtedness owed to the Borrower or a Subsidiary, (b) make loans or advances to the Borrower or any Subsidiary or (c) transfer any of its properties to the Borrower or any Subsidiary, except for such encumbrances or restrictions existing under or by reason of (i) applicable Law; (ii) this Credit Agreement and the other Credit Documents; (iii) the Senior Notes; (iv) customary provisions restricting subletting or assignment of any lease governing a leasehold interest of a Subsidiary; (v) customary provisions restricting assignment of any agreement entered into by a Subsidiary in the ordinary course of business; (vi) any holder of a Lien permitted by Section 8.01 restricting the transfer of the property subject thereto; (vii) customary restrictions and conditions contained in any agreement relating to the sale of any property permitted under Section 8.05 pending the consummation of such sale; (viii) without affecting the Credit Parties' obligations under Sections 7.12, 7.13 or 7.14, customary provisions in partnership agreements, limited liability company organizational governance documents, asset sale and stock sale agreements and other similar agreements entered into in the ordinary course of business that restrict the transfer of ownership interests in such partnership, limited liability company or similar person; (ix) restrictions on cash or other deposits or net worth imposed by suppliers or landlords under contracts entered into in the ordinary course of business; (x) any instrument governing Indebtedness assumed in connection with any Permitted Acquisition pursuant to Section 8.03(h), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person or the properties or assets of the Person so acquired; (xi) in the case of any Subsidiary that is not a Wholly Owned Subsidiary in respect of any matters referred to in clauses (b) and (c) above, restrictions in such person's Organization Documents or pursuant to any joint venture agreement or stockholders agreements solely to the extent of the Capital Stock of or property held in the subject joint venture or other entity; (xii) contractual encumbrances or restrictions in effect on the Closing Date under Indebtedness existing on the Closing Date and set forth on Schedule 8.03, (xiii) any restrictions imposed by any agreement relating to Indebtedness incurred pursuant to Section 8.03(f) to the extent such restrictions are not more restrictive, taken as a whole, than the restrictions contained in the Senior Notes as in effect on the Closing Date; (xiv) customary net worth provisions contained in real property leases entered into by the Borrower or any Subsidiary, so long as the Borrower has determined in good faith that such net worth provisions would not reasonably be expected to impair the ability of the Borrower and its Subsidiaries to meet their ongoing obligations; (xv) any

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agreement in effect at the time any Person becomes a Subsidiary, so long as such agreement was not entered into in contemplation of such Person becoming a Subsidiary, (xv) restrictions in agreements representing Indebtedness permitted under Section 8.03 of a Subsidiary of the Borrower that is not a Guarantor; (xvi) restrictions on cash or other deposits imposed by customers under contracts entered into in the ordinary course of business; and (xvii) any encumbrances or restrictions imposed by any refinancings that are otherwise permitted by the Credit Documents of the contracts, instruments or obligations referred to above; provided that such refinancings are no more materially restrictive with respect to such encumbrances and restrictions than those prior to such amendment or refinancing.

#### 8.12 Spin-Off.

Notwithstanding anything to the contrary provided herein or any Credit Document, nothing in this Credit Agreement shall prohibit the Spin-Off and any transaction undertaken in connection therewith (including the conversion of the Borrower or any of its Subsidiaries to a limited liability company in the country of its organization, Restricted Payments or intercompany transfers of cash, Subsidiaries or other assets among the Borrower and its Subsidiaries and to IAC or any of its Subsidiaries, purchases of assets from IAC or any of its Subsidiaries, and payments of intercompany payables among the Borrower and its Subsidiaries or to IAC or any of its Subsidiaries (including "true-up" payments to IAC or any of its Subsidiaries subsequent to completion of the Spin-Off), whether in the ordinary course of business or in preparation for the Spin-Off or otherwise in connection therewith), in each case to the extent contemplated by the Separation Agreement. For the avoidance of doubt, but not in derogation of the requirements of the previous sentence, any Restricted Payments made or transactions with any Affiliate of the Borrower entered into in the ordinary course of business consistent with past practice between the Closing Date and the Spin-Off Date shall not be prohibited by the terms of this Credit Agreement.

#### 8.13 Transfers/Investments with Respect to Certain Subsidiaries.

Make or permit any Disposition of Property to, or any Investment in, any Guarantor (other than de minimis Property or Investments) in respect of which no opinion referred to in Section 5.02(f) has been delivered to the Administrative Agent, unless and until an opinion with respect to such Guarantor has been so delivered (it being understood that the only Guarantors in respect of which no such opinion may be delivered on the Funding Date shall be Guarantors that meet the requirements of the definition of Immaterial Subsidiary, without giving effect to the proviso to such definition).

### ARTICLE IX

#### EVENTS OF DEFAULT AND REMEDIES

#### 9.01 Events of Default.

Any of the following shall constitute an Event of Default:

- (a) Non-Payment. The Borrower or any other Credit Party fails to pay (i) when and as required to be paid herein, any amount of principal of any Loan or any

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L/C Obligation, or (ii) within three (3) Business Days after the same becomes due, any interest on any Loan or any regularly accruing fee due hereunder or any other amount payable hereunder or under any other Credit Document; or

- (b) Specific Covenants. The Borrower or any other Credit Party fails to perform or observe any term, covenant or agreement contained in any of Section 7.03(a), 7.11 or Article VIII or, with respect to the existence of the Borrower only, Section 7.04; or
- (c) Other Defaults. The Borrower or any other Credit Party fails to perform or observe any other covenant or agreement (not specified in subsections (a) or (b) above) contained in any Credit Document on its part to be performed or observed and such failure continues for thirty (30) calendar days after written notice to the defaulting party or the Borrower by the Administrative Agent or the Required Lenders; or
- (d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of the Borrower or any other Credit Party herein, in any other Credit Document, or in any document delivered in connection herewith or therewith shall be false in any material respect when made or deemed made; or

(e) **Cross-Default.** (i) Any member of the Consolidated Group (A) fails (beyond the period of grace (if any) provided in the instrument or agreement pursuant to which such Indebtedness was created) to make any payment when due (whether by scheduled maturity, interest, required prepayment, acceleration, demand, or otherwise) in respect of any Indebtedness or Support Obligations (other than Indebtedness hereunder or Indebtedness under Swap Contracts) having a principal amount (with principal amount for the purposes of this clause (e) including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement), when taken together with the principal amount of all other Indebtedness and Support Obligations as to which any such failure has occurred, exceeding \$25.0 million or (B) fails to observe or perform any other agreement or condition relating to any Indebtedness or Support Obligations or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which failure or other event is to cause, or to permit the holder or holders of such Indebtedness or the beneficiary or beneficiaries of such Support Obligations (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity, or such Support Obligations to become payable or cash collateral in respect thereof to be demanded, which has an unpaid principal amount, when taken together with the unpaid principal amounts of all other Indebtedness and Support Obligations as to which any such failure or event has occurred, exceeding \$25.0 million; or (ii) there occurs under any Swap Contract an “early termination date” (or term of similar import) resulting from (A) any event of default under such Swap Contract as to which the Borrower or any Subsidiary is the “defaulting party” (or term of similar import) or (B) any “termination event” (or

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term of similar import) under such Swap Contract as to which the Borrower or any Subsidiary is an “affected party” (or term of similar import) and, when taken together with all other Swap Contracts as to which events of default or events referred to in the immediately preceding clauses (A) or (B) are applicable, the Swap Termination Value owed by the Borrower and its Subsidiaries exceeds \$25.0 million; or

(f) **Insolvency Proceedings, Etc.** The Borrower, any Guarantor or any Significant Subsidiary institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for sixty (60) calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for sixty (60) calendar days, or an order for relief is entered in any such proceeding; or

(g) **Change of Control.** There shall have occurred a Change of Control of the Borrower; or

(h) **Inability to Pay Debts: Attachment.** The Borrower, any Guarantor or any Significant Subsidiary becomes unable or admits in writing its inability or fails generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or execution or similar process issued or levied against all or any material part of the property of any such Person and is not released, vacated or fully bonded within thirty (30) days after its issue or levy; or

(i) **Judgments.** There is entered against any member of the Consolidated Group one or more final judgments or orders for the payment of money in an aggregate amount (as to all such judgments and orders) exceeding \$25.0 million (to the extent not covered by independent third-party insurance as to which the insurer does not dispute coverage or otherwise discharged), and there is a period of 30 consecutive days during which a stay of enforcement of such judgments, by reason of a pending appeal or otherwise, is not in effect; or

(j) **ERISA.** (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan that has resulted or would reasonably be expected to result in liability of a Credit Party under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC in an aggregate amount in excess of \$25.0 million, or (ii) a Credit Party fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount in excess of \$25.0 million; or

(k) **Invalidity of Credit Documents.** Any Credit Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or satisfaction in full of all the Obligations, ceases to be in full force and effect; or any

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Credit Party contests in any manner the validity or enforceability of any Credit Document; or any Credit Party denies that it has any or further liability or obligation under any Credit Document, or purports to revoke, terminate or rescind any Credit Document; or

(l) **Collateral Documents.** Any Collateral Document after delivery thereof pursuant to Section 5.02, 7.13, 7.14 or 7.15 shall for any reason cease to create a valid and perfected first priority Lien to the extent required by the Collateral Documents (subject to Liens permitted by Section 8.01) on Collateral that is (i) purported to be covered thereby and (ii) comprises Property which, when taken together with all Property as to which such a Lien has so ceased to be effective, has a fair market value in excess of \$7.5 million (other than by reason of (x) the express release thereof pursuant to Section 10.10, (y) the failure of the Collateral Agent to retain possession of Collateral physically delivered to it or (z) the failure of the Collateral Agent to timely file Uniform Commercial Code continuation statements).

## **9.02 Remedies upon Event of Default**

If any Event of Default occurs and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders, take any or all of the following actions:

- (a) declare the Commitments of the Lenders and the obligation of each L/C Issuer to make L/C Credit Extensions to be terminated, whereupon such Commitments and obligation shall be terminated;
- (b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Credit Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower;
- (c) require that the Borrower Cash Collateralize the L/C Obligations (in an amount equal to the then Outstanding Amount thereof); and
- (d) exercise on behalf of itself and the Lenders all rights and remedies available to it or to the Lenders under the Credit Documents or applicable Law;

provided, however, that upon the occurrence of an Event of Default under Section 9.01(f) or (h), the obligation of each Lender to make Loans and any obligation of each L/C Issuer to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Borrower to Cash Collateralize the L/C Obligations as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

### 9.03 **Application of Funds.**

After the exercise of remedies provided for in Section 9.02 (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be Cash Collateralized as set forth in the proviso to Section 9.02), any amounts received on account of the Obligations shall be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including all reasonable fees, expenses and disbursements of any law firm or other counsel and amounts payable under Article III) payable to the Administrative Agent and the Collateral Agent, in each case in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest, Facility Fees, Commitment Fees and Letter of Credit Fees) payable to the Lenders (including all reasonable fees, expenses and disbursements of any law firm or other counsel and amounts payable under Article III), ratably among the Lenders in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid Commitment Fees and Facility Fees, Letter of Credit Fees and interest on the Loans, L/C Borrowings and other Obligations, ratably among the Lenders, the Swingline Lender and each L/C Issuer in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to (a) payment of that portion of the Obligations constituting unpaid principal of the Loans and L/C Borrowings, (b) payment of breakage, termination or other amounts owing in respect of any Swap Contract between any Credit Party and any Lender, or any Affiliate of a Lender, to the extent such Swap Contract is permitted hereunder, (c) payments of amounts due under any Treasury Management Agreement between any Credit Party and any Lender, or any Affiliate of a Lender and (d) the Administrative Agent for the account of each L/C Issuer, to Cash Collateralize that portion of the L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit, ratably among such parties in proportion to the respective amounts described in this clause Fourth payable to them; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Borrower or as otherwise required by Law.

Subject to Section 2.03(c), amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Fourth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as cash collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above.

## ARTICLE X

### AGENTS

#### 10.01 **Appointment and Authorization of Administrative Agent and Collateral Agent.**

(a) Each of the Lenders and the L/C Issuers hereby irrevocably appoints Bank of America to act on its behalf as the Administrative Agent and Collateral Agent hereunder and under the other Credit Documents and authorizes each of the Administrative Agent and Collateral Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent or the Collateral Agent, as the case may be, by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent, the Collateral Agent, the Lenders and the L/C Issuers, and neither the Borrower nor any other Credit Party shall have rights as a third party beneficiary of any of such provisions.

(b) Each Lender hereby irrevocably appoints, designates and authorizes the Collateral Agent to take such action on its behalf under the provisions of this Credit Agreement and each Collateral Document and to exercise such powers and perform such duties as are expressly delegated to it by the terms of this Credit Agreement or any Collateral Document, together with such powers as are reasonably incidental thereto. In this connection, the Collateral Agent, and any co-agents, sub-agents and attorneys-in-fact appointed by the Collateral Agent pursuant to Section 10.05 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Collateral Agent), shall be entitled to the benefits of all provisions of this Article X and Article XI (including Section 11.04(c)), as though such co-agents, sub-agents and attorneys-in-fact were the "collateral agent" under the Credit Documents) as if set forth in full herein with respect thereto. Notwithstanding any provision to the contrary contained elsewhere herein or in any Collateral Document, neither the Administrative Agent nor the Collateral Agent shall have any duties or responsibilities, except those expressly set forth herein or therein, nor shall the Administrative Agent or the Collateral Agent have or be deemed to have any fiduciary relationship with any Lender or participant, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Credit Agreement or any Collateral Document or otherwise exist against the Administrative Agent or the Collateral Agent. Without limiting the generality of the foregoing sentence, the use of the term "agent" herein and in the Collateral Documents with reference to the Administrative Agent or the Collateral Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties. The Collateral Agent shall act on behalf of the Lenders with respect to any Collateral and the Collateral Documents, and the Collateral Agent shall have all of the benefits and immunities (i) provided to the Administrative Agent under the Credit Documents with respect to any acts taken or omissions suffered by the Collateral Agent in connection with any Collateral or the Collateral Documents as fully as if the term "Administrative Agent" as used in such Credit Documents included the Collateral Agent with respect to such acts or omissions, and (ii) as additionally provided herein or in the Collateral Documents with respect to the Collateral Agent.

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

#### 10.02 **Rights as a Lender.**

Each Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not an Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as such Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for



and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not an Agent hereunder and without any duty to account therefor to the Lenders.

#### **10.03 Exculpatory Provisions.**

The Agents shall not have any duties or obligations except those expressly set forth herein and in the other Credit Documents. Without limiting the generality of the foregoing, the Agents:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Credit Documents that the Agents are required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Credit Documents), provided that no Agent shall be required to take any action that, in its opinion or the opinion of its counsel, may expose such Agent to liability or that is contrary to any Credit Document or applicable law; and

(c) shall not, except as expressly set forth herein and in the other Credit Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or Collateral Agent or any of its or their Affiliates in any capacity.

Neither the Administrative Agent nor the Collateral Agent shall be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as such Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 11.01 and 9.02)

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or (ii) in the absence of its own gross negligence or willful misconduct. The Administrative Agent and the Collateral Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to such Agent by the Borrower, a Lender or an L/C Issuer.

No Agent shall be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Credit Agreement or any other Credit Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Credit Agreement, any other Credit Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Collateral Documents, (v) the value or the sufficiency of any Collateral or (vi) the satisfaction of any condition set forth in Article V or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to such Agent.

#### **10.04 Reliance by Administrative Agent and Collateral Agent.**

The Administrative Agent and Collateral Agent shall each be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. Each of the Administrative Agent and Collateral Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or an L/C Issuer, each of the Administrative Agent and the Collateral Agent may presume that such condition is satisfactory to such Lender or such L/C Issuer unless such Agent shall have received notice to the contrary from such Lender or such L/C Issuer prior to the making of such Loan or the issuance of such Letter of Credit. Each of the Administrative Agent and the Collateral Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by them in accordance with the advice of any such counsel, accountants or experts.

#### **10.05 Delegation of Duties.**

The Administrative Agent and the Collateral Agent may perform any and all of their duties and exercise their rights and powers hereunder or under any other Credit Document by or through any one or more sub-agents appointed by the Administrative Agent or Collateral Agent, as the case may be. The Administrative Agent, Collateral Agent and any such sub-agent may perform any and all of their duties and exercise their rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent, the Collateral Agent, and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the

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credit facilities provided for herein as well as activities as Administrative Agent or Collateral Agent, as the case may be.

#### **10.06 Resignation of the Administrative Agent or the Collateral Agent**

Each of the Administrative Agent and the Collateral Agent may at any time give notice of its resignation to the Lenders, each L/C Issuer and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, with the consent of the Borrower (provided, no consent shall be required if an Event of Default has occurred and is continuing), to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Agent gives notice of its resignation, then the retiring Agent may on behalf of the Lenders and the L/C Issuers, with the consent of the Borrower (provided, no consent shall be required if an Event of Default has occurred and is continuing), appoint a successor Administrative Agent or Collateral Agent, as the case may be, meeting the qualifications set forth above; provided that if the Administrative Agent or Collateral Agent, as the case may be, shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (1) the retiring Agent shall be discharged from its duties and obligations hereunder and under the other Credit Documents (except that in the case of any collateral security held by the Administrative Agent or Collateral Agent, as the case may be, on behalf of the Lenders or the L/C Issuers under any of the Credit Documents, such retiring Agent shall continue to hold such collateral security until such time as a successor Administrative Agent or Collateral Agent, as the case may be, is appointed) and (2) all payments, communications and determinations provided to be made by, to or through the Administrative Agent or Collateral Agent, as the case may be, shall instead be made by or to each Lender and each L/C Issuer directly, until such time as the Required Lenders appoint a successor Administrative Agent or Collateral Agent, as the case may be, as provided for above in this Section. Upon the acceptance of a successor's appointment as Administrative Agent or Collateral Agent, as the case may be, hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Administrative Agent or Collateral Agent, as the case may be, and the retiring Administrative Agent or Collateral Agent, as the case may be, shall be discharged from all of its duties and obligations hereunder or under the other Credit Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Agent's resignation hereunder and under the other Credit Documents, the provisions of this Article and Section 11.04 shall continue in effect for the benefit of such retiring Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be

taken by any of them while the retiring Agent was acting as Administrative Agent or Collateral Agent, as the case may be.

Any resignation by Bank of America as Administrative Agent or Collateral Agent, as the case may be, pursuant to this Section shall also constitute its resignation as L/C Issuer and Swingline Lender. Upon the acceptance of a successor's appointment as Administrative Agent or Collateral Agent, as the case may be, hereunder, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer and

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Swingline Lender, (b) the retiring L/C Issuer and Swingline Lender shall be discharged from all of their respective duties and obligations hereunder or under the other Credit Documents, and (c) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to the retiring L/C Issuer to effectively assume the obligations of the retiring L/C Issuer with respect to such Letters of Credit.

#### **10.07 Non-Reliance on Administrative Agent, Collateral Agent and Other Lenders**

Each Lender and each L/C Issuer acknowledges that it has, independently and without reliance upon the Administrative Agent, Collateral Agent, or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Credit Agreement. Each Lender and each L/C Issuer also acknowledges that it will, independently and without reliance upon the Administrative Agent, Collateral Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Credit Agreement, any other Credit Document or any related agreement or any document furnished hereunder or thereunder.

#### **10.08 No Other Duties.**

Anything herein to the contrary notwithstanding, none of the "Syndication Agent," "Co-Documentation Agents," "Co-Lead Arrangers" and "Co-Book Managers" listed on the cover page hereof shall have any powers, duties or responsibilities under this Credit Agreement or any of the other Credit Documents, except in its capacity, as applicable, as the Administrative Agent, the Collateral Agent, a Lender or an L/C Issuer hereunder.

#### **10.09 Administrative Agent or Collateral Agent May File Proofs of Claim**

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Credit Party, the Administrative Agent or Collateral Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other Obligations (other than obligations under Swap Contracts or Treasury Management Agreements to which the Administrative Agent or the Collateral Agent is not a party) that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the L/C Issuers, the Collateral Agent and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the L/C Issuers, the Collateral Agent and the Administrative Agent and their respective agents and counsel and all other amounts due the

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Lenders, the L/C Issuers, the Collateral Agent and the Administrative Agent under Sections 2.09 and 11.04) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and each L/C Issuer to make such payments to the Administrative Agent or the Collateral Agent, as the case may be, and, in the event that such Agent shall consent to the making of such payments directly to the Lenders and each L/C Issuer, to pay to the Administrative Agent or the Collateral Agent, as the case may be, any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent or the Collateral Agent, as the case may be, and its agents and counsel, and any other amounts due to such Agent under Sections 2.09 and 11.04.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or any L/C Issuer any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Administrative Agent or Collateral Agent to vote in respect of the claim of any Lender in any such proceeding.

#### **10.10 Collateral and Guaranty Matters.**

The Lenders and each L/C Issuer irrevocably authorize the Administrative Agent and the Collateral Agent, at its option and in its discretion:

(a) to release any Guarantor from its obligations under the Collateral Documents if such Person ceases to be a Subsidiary as a result of a transaction permitted hereunder, or if the conditions set forth in clause (b)(i) below are satisfied;

(b) to release any Lien on any property granted to or held by the Collateral Agent under any Credit Document (i) upon termination of the Aggregate Commitments and payment in full of all Obligations (other than (A) contingent indemnification obligations not then due and payable, (B) obligations and liabilities under Swap Contracts and Treasury Management Agreements not then due and payable) and the expiration or termination of all Letters of Credit (or if any Letters of Credit shall remain outstanding, upon (x) the cash collateralization of the Outstanding Amount of Letters of Credit on terms satisfactory to the Administrative Agent and the applicable L/C Issuer (if other than the Administrative Agent) or (y) the receipt by the applicable L/C Issuer of a backstop letter of credit on terms satisfactory to the Administrative Agent and the applicable L/C Issuer (if other than the Administrative Agent)), (ii) that is sold or to be sold as part of or in connection with any sale permitted hereunder or under any other Credit Document (other than any such sale to another Credit Party), or (iii) subject to Section 11.01, if approved, authorized or ratified in writing by the Required Lenders; and

(c) to subordinate any Lien on any property granted to or held by the Collateral Agent under any Credit Document to the holder of any Lien on such property that is permitted by Section 8.01(i).

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Upon request by the Administrative Agent or the Collateral Agent at any time, the Required Lenders will confirm in writing the authority of the Collateral Agent to

release or subordinate its interest in particular property and of the Administrative Agent to release any Guarantor from its obligations hereunder pursuant to this Section 10.10.

#### 10.11 Withholding Tax.

To the extent required by any applicable law, the Administrative Agent may withhold from any payment to any Lender any applicable Tax. If the IRS or any other authority of the United States or other jurisdiction asserts a claim that the Administrative Agent did not properly withhold tax from amounts paid to or for the account of any Lender for any reason (including, without limitation, because the appropriate form was not delivered or not properly executed, or because such Lender failed to notify the Administrative Agent of a change in circumstance that rendered the exemption from, or reduction of withholding tax ineffective), such Lender shall indemnify and hold harmless the Administrative Agent for all amounts paid, directly or indirectly, by the Administrative Agent as tax or otherwise, including any interest, additions to tax or penalties thereto, together with all expenses incurred, including legal expenses and any other out-of-pocket expenses, whether or not such tax was correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. For the avoidance of doubt, this Section shall not limit or expand any Tax indemnification obligation of any Credit Party under this Credit Agreement.

#### 10.12 Treasury Management Agreements and Swap Contracts

Except as otherwise expressly set forth herein or in any Collateral Document, no Treasury Management Bank or Hedge Bank that obtains the guarantees hereunder or any Collateral by virtue of the provisions hereof or of any Collateral Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Credit Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Credit Documents. Notwithstanding any other provision of this Article X to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under Treasury Management Agreements and Swap Contracts unless the Administrative Agent has received written notice of such Obligations, together with such supporting documentation as the Administrative Agent may request, from the applicable Treasury Management Bank or Hedge Bank, as the case may be.

### ARTICLE XI

#### MISCELLANEOUS

#### 11.01 Amendments, Etc.

No amendment or waiver of, or any consent to deviation from, any provision of this Credit Agreement or any other Credit Document shall be effective unless in writing and signed

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by the Borrower or the applicable Credit Party, as the case may be, and the Required Lenders and the Administrative Agent (at the direction of the Required Lenders), and each such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which it is given; provided, however, that:

- (a) without the consent of each Lender, no such amendment, waiver or consent shall:
  - (i) amend or waive any condition precedent to the initial Credit Extension set forth in Section 5.02 or (solely with respect to the initial Credit Extension) any condition precedent set forth in Section 5.03;
  - (ii) change any provision of this Credit Agreement regarding pro rata sharing or pro rata funding with respect to (A) the making of advances (including participations), (B) the manner of application of payments or prepayments of principal, interest, or fees, (C) the manner of application of reimbursement obligations from drawings under Letters of Credit, or (D) the manner of reduction of commitments and committed amounts;
  - (iii) change any provision of this Section 11.01(a) or the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder, or
  - (iv) release all or substantially all of the Collateral (other than as provided herein as of the Closing Date or as appropriate in connection with transactions permitted hereunder as of the Closing Date), or
  - (v) release all or substantially all of the value of the guarantees provided by the Guarantors without the written consent of each Lender (other than as provided herein as of the Closing Date or as appropriate in connection with transactions permitted hereunder as of the Closing Date);
- (b) without the consent of each Lender adversely affected thereby, no such amendment, waiver or consent shall:
  - (i) extend or increase the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 9.02), it being understood that the amendment or waiver of an Event of Default or a mandatory reduction or a mandatory prepayment in Commitments shall not be considered an increase in Commitments,
  - (ii) waive non-payment or postpone any date fixed by this Credit Agreement or any other Credit Document for any payment of principal, interest, fees or other amounts due to any Lender hereunder or under any other Credit Document or change the scheduled final maturity of any Loan,

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- (iii) reduce the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing, or any fees or other amounts payable hereunder or under any other Credit Document; provided, however, that only the consent of the Required Lenders shall be necessary (A) to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest or Letter of Credit Fees at the Default Rate or (B) to amend any financial covenant hereunder (or any defined term used therein) even if the effect of such amendment would be to reduce the rate of interest on any Loan or L/C Borrowing or to reduce any fee payable hereunder, or
  - (iv) except as otherwise expressly permitted in the Credit Documents as in effect on the Closing Date, expressly subordinate any of the Obligations in right of payment to any other obligations or subordinate all or substantially all of the Liens securing the Obligations to Liens securing any other Indebtedness;
- (c) unless signed by the Required Term Lenders, no such amendment, waiver or consent shall:
  - (i) amend or waive the manner of application of any mandatory prepayment to the Term Loans under Section 2.06(c), or

(ii) amend or waive the provisions of this Section 11.01(c) or the definition of “Required Term Lenders”;

(d) any such amendment, waiver or consent to any provision that relates to the Revolving Commitments or Revolving Loans, on the one hand, but not the Term Loan Commitments or the Term Loans, on the other hand, or relates to the Term Loan Commitments or Term Loans, on the one hand, but not to the Revolving Commitments or Revolving Loans, on the other hand, or applies differently to the Term Loan Commitments or Term Loans, on the one hand, and to the Revolving Commitments or Revolving Loans, on the other hand, shall also require the consent of the Required Term Lenders or the Required Revolving Lenders, as the case may be;

(e) unless also signed by the Required Revolving Lenders, no such amendment, waiver or consent shall amend or waive (i) the provisions of this Section 11.01(f), (ii) the definition of “Required Revolving Lenders” or (iii) any condition precedent to any Credit Extension (other than the initial Credit Extension) set forth in Section 5.03;

(f) unless also consented to in writing by the L/C Issuers, no such amendment, waiver or consent shall affect the rights or duties of the L/C Issuers under this Credit Agreement or any Issuer Document relating to any Letter of Credit issued or to be issued by them;

(g) unless also consented to in writing by the Swingline Lender, no such amendment, waiver or consent shall affect the rights or duties of the Swingline Lender under this Credit Agreement;

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(h) unless also consented to in writing by the Administrative Agent, no such amendment, waiver or consent shall affect the rights or duties of the Administrative Agent under this Credit Agreement or any other Credit Document; and

(i) unless also consented to in writing by the Collateral Agent, no such amendment, waiver or consent shall affect the rights or duties of the Collateral Agent under this Credit Agreement or any other Credit Document;

provided, however, that notwithstanding anything to the contrary contained herein, (i) no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except that the Commitment of such Lender may not be increased or extended without the consent of such Lender, (ii) each Lender is entitled to vote as such Lender sees fit on any bankruptcy or insolvency reorganization plan that affects the Loans, (iii) each Lender acknowledges that the provisions of Section 1126(c) of the Bankruptcy Code of the United States supersedes the unanimous consent provisions set forth herein, (iv) the Required Lenders may consent to allow a Credit Party to use cash collateral in the context of a bankruptcy or insolvency proceeding, (v) Section 11.06(h) may not be amended, waived or otherwise modified without the consent of each Granting Lender all or any part of whose Loans are being funded by a SPC at the time of such amendment, waiver or other modification, and (vi) the Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto.

Notwithstanding anything to the contrary contained in this Section 11.01, (a) if the Administrative Agent and the Borrower shall have jointly identified an obvious error (including, but not limited to, an incorrect cross-reference) or any error or omission of a technical nature, in each case, in any provision of any Credit Document, then the Administrative Agent and/or the Collateral Agent (acting in their sole discretion) and the Borrower or any other relevant Credit Party shall be permitted to amend such provision or cure any ambiguity, defect or inconsistency and such amendment shall become effective without any further action or consent of any other party to any Credit Document, and (b) the Borrower and the Administrative Agent and/or the Collateral Agent shall have the right to amend any Credit Document without notice to or consent of any other person to the extent described in the last paragraph of each of Sections 2.01(e) and (f).

## **11.02 Notices; Effectiveness; Electronic Communication.**

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier or, with confirmation of receipt, electronic mail as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Borrower, the Administrative Agent, an L/C Issuer or the Swingline Lender, to the address, telecopier number, electronic mail address or telephone number specified for such Person on Schedule 11.02; and

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(ii) if to any other Lender, to the address, telecopier number, electronic mail address or telephone number specified in its Administrative Questionnaire.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Lenders and the L/C Issuers hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or L/C Issuer pursuant to Article II if such Lender or such L/C Issuer, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent (a) to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the “return receipt requested” function, if available, return e-mail or other written acknowledgement) and (b) by facsimile shall be deemed received upon the sender's receipt of a notice of the successful transmission of such facsimile or upon the recipients knowledge of receipt of such facsimile, provided that, in each case, if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) THE PLATFORM IS PROVIDED “AS IS” AND “AS AVAILABLE.” THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE CREDIT PARTY MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR

FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE CREDIT PARTY MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent, the Collateral Agent or any of its Related Parties (collectively, the "Agent Parties") have any liability to any Credit Party, Lender, L/C Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of any Credit Party's, the Collateral

Agent's or the Administrative Agent's transmission of Credit Party Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; provided, however, that in no event shall any Agent Party have any liability to any Credit Party, Lender, L/C Issuer or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

(d) Change of Address, Etc. Each of the Borrower, the Administrative Agent, the L/C Issuers and the Swingline Lender may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the Borrower, the Administrative Agent, each L/C Issuer and the Swingline Lender. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, telecopier number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender.

(e) Reliance by Administrative Agent, L/C Issuers and Lenders The Administrative Agent, the L/C Issuers and the Lenders shall be entitled to rely and act upon any notices (including telephonic Loan Notices and Loan Notices for Swingline Loans) purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify the Administrative Agent, each L/C Issuer, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

### **11.03 No Waiver; Cumulative Remedies; Enforcement.**

No failure by any Lender, L/C Issuer, Swingline Lender, the Collateral Agent or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder 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.

Notwithstanding anything to the contrary contained herein or in any other Credit Document, the authority to enforce rights and remedies hereunder and under the other Credit Documents against the Credit Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 9.02 for the benefit of all the Lenders and each L/C Issuer; provided, however, that the foregoing shall not prohibit (a) the

Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Credit Documents, (b) each L/C Issuer or the Swingline Lender from exercising the rights and remedies that inure to its benefit (solely in its capacity as L/C Issuer or Swingline Lender, as the case may be) hereunder and under the other Credit Documents, (c) any Lender from exercising setoff rights in accordance with Section 11.08 (subject to the terms of Section 2.12), or (d) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Credit Party under any Debtor Relief Law; and provided, further, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Credit Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Section 9.02 and (ii) in addition to the matters set forth in clauses (b), (c) and (d) of the preceding proviso and subject to Section 2.12, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

### **11.04 Expenses; Indemnity; Damage Waiver.**

(a) Costs and Expenses. The Borrower shall pay (i) all reasonable documented out-of-pocket expenses incurred by the Administrative Agent, the Collateral Agent and its Affiliates (including the reasonable fees, charges and disbursements of counsel for the Administrative Agent and the Collateral Agent), in connection with the administration, syndication and closing of the credit facilities provided for herein, the preparation, due diligence, negotiation, execution, delivery and administration of this Credit Agreement and the other Credit Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by the L/C Issuers in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all reasonable out-of-pocket expenses incurred by the Administrative Agent, the Collateral Agent, any Lender or any L/C Issuer (including the fees, charges and disbursements of any counsel for the Administrative Agent, the Collateral Agent, any Lender or any L/C Issuer), and all fees and time charges for attorneys who may be employees of the Administrative Agent, the Collateral Agent, any Lender or any L/C Issuer, in connection with the enforcement or protection of its rights (A) in connection with this Credit Agreement and the other Credit Documents, including its rights under this Section, or (B) in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) Indemnification by the Borrower. The Borrower shall indemnify the Administrative Agent, the Collateral Agent (and any sub-agents thereof), each Lender and each L/C Issuer, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including any settlement costs and fees, charges and disbursements of any counsel for any Indemnitee), and shall indemnify and hold harmless each Indemnitee from all fees and time charges and disbursements for attorneys who may be employees of any Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any third party or by the Borrower or any other Credit Party arising out of, in connection with, or as a result of (i) the execution or delivery of this Credit Agreement, any other Credit Document or any

agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, or, in the case of the Administrative Agent and the Collateral Agent (and any sub-agents thereof) and their Related Parties only, the administration of this Credit Agreement and the other Credit Documents, (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by any L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any Environmental Liability related to the Borrower or any of its Subsidiaries, or (iv) any claim, litigation, investigation

or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any other Credit Party, and regardless of whether any Indemnitee is a party thereto, in all cases, whether or not caused by or arising, in whole or in part, out of comparative, contributory or sole negligence of the Indemnitee; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by the Borrower or any other Credit Party against an Indemnitee for breach in bad faith of such Indemnitee's obligations hereunder or under any other Credit Document, if the Borrower or such Credit Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction.

(c) Reimbursement by Lenders. To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under subsections (a) or (b) of this Section to be paid by it to the Administrative Agent or the Collateral Agent, as the case may be, (or any sub-agent thereof) any L/C Issuer or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent or the Collateral Agent, as the case may be, (or any such sub-agent), an L/C Issuer or such Related Party, as the case may be, such Lender's Aggregate Commitment Percentage or, in the case of L/C Obligations, Revolving Commitment Percentage (as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent or the Collateral Agent, as the case may be, (or any such sub-agent) or such L/C Issuer in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent or the Collateral Agent, as the case may be, (or any such sub-agent) or L/C Issuer in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 2.11(d).

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable law, the Borrower shall not assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Credit Agreement, any other Credit Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee referred to in subsection (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection

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with this Credit Agreement or the other Credit Documents or the transactions contemplated hereby or thereby.

(c) Payments. All amounts due under this Section shall be payable not later than ten (10) Business Days after demand therefor.

(f) Survival. The agreements in this Section shall survive the resignation of the Administrative Agent, the Collateral Agent and any L/C Issuer, the replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations.

#### **11.05 Payments Set Aside.**

To the extent that any payment by or on behalf of the Borrower is made to the Administrative Agent, the Collateral Agent, any L/C Issuer or any Lender, or the Administrative Agent, the Collateral Agent, any L/C Issuer or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent, the Collateral Agent, such L/C Issuer or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and L/C Issuer severally agrees to pay to the Administrative Agent or the Collateral Agent, as the case may be, on demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent or the Collateral Agent, as the case may be, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders and the L/C Issuers under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Credit Agreement.

#### **11.06 Successors and Assigns.**

(a) Successors and Assigns Generally. The provisions of this Credit Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that neither the Borrower nor any other Credit Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender (other than in connection with a transaction permitted by Section 8.04) and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section, or (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (f) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Credit Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the

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Administrative Agent, the L/C Issuers and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Credit Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one (1) or more Eligible Assignees all or a portion of its rights and obligations under this Credit Agreement (including all or a portion of its Commitment and the Loans (including for purposes of this subsection (b), participations in L/C Obligations and in Swingline Loans) at the time owing to it); provided that

(i) except in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and the Loans at the time owing to it or in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund with respect to a Lender, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than (A) in the case of Revolving Commitments and Revolving Loans, \$5.0 million, and (B) in the case each of the Term Loans, \$1.0 million, unless, in each case, each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed), it being understood that assignments to a Lender or an Affiliate of a Lender or an Approved Fund shall not be subject to such minimum amounts;

(ii) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Credit Agreement with respect to the Loans and the Commitment assigned, except that this clause (ii) shall not apply to rights in respect of Swingline Loans;

(iii) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Term Loan Lender's rights and obligations under this Credit Agreement with respect to the Term Loans or Term Loan Commitment assigned

(iv) any assignment of (A) a Revolving Commitment and Revolving Loans must be approved by the Administrative Agent, the L/C Issuers and the Swingline Lender, unless the Person that is the proposed assignee is itself a Lender (whether or not the proposed assignee would otherwise qualify as an Eligible Assignee) and, so long as no Event of Default has occurred and is continuing, the Borrower (each such approval not to be unreasonably withheld or delayed); provided that the Borrower's approval shall not be required if the proposed assignee is a Lender, an Affiliate of a Lender or an Approved Fund; and (B) the Term Loans must be approved by the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrower (each such approval not to be unreasonably withheld or delayed); provided that no approval shall be required if the proposed assignee is a Lender, an Affiliate of a Lender or an Approved Fund; and

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(v) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of \$3,500 (unless waived by the Administrative Agent in its sole discretion), and the Eligible Assignee, if it shall not be a Lender, shall (A) deliver to the Administrative Agent an Administrative Questionnaire and (B) deliver to the Borrower and the Administrative Agent the forms required to be delivered pursuant to Section 3.01(e).

Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Credit Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Credit 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 Credit Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Credit Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05, and 11.04 with respect to facts and circumstances occurring prior to the effective date of such assignment. Upon request, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Credit Agreement that does not comply with this subsection shall be treated for purposes of this Credit Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section.

(c) Register. The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts of the Loans and L/C Obligations and the interest thereon owing and paid to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Credit Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by each of the Borrower and the L/C Issuers at any reasonable time and from time to time upon reasonable prior notice. In addition, at any time that a request for a consent for a material or substantive change to the Credit Documents is pending, any Lender may request and receive from the Administrative Agent a copy of the Register.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural person or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Credit Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in L/C Obligations and/or Swingline Loans) owing to it); provided that (i) such Lender's obligations under this Credit Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent, the Lenders and the L/C Issuers shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under

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this Credit Agreement. Each Lender, acting solely for this purpose as a non-fiduciary agent of the Borrower, shall maintain a register for the recordation of the names and addresses of such Participants and the rights, interests or obligations of such Participants in any Obligation, in any Commitment and in any right to receive any principal, interest and other payments thereunder (the "Participant Register"). The entries in the Participant Register shall be conclusive absent manifest error and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Credit Agreement notwithstanding any notice to the contrary.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Credit Agreement and to approve any amendment, modification or waiver of any provision of this Credit Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in Section 11.01(a)(iv) or (v) or, to the extent the Participant is affected thereby, Section 11.01(b)(i), (ii) or (iii). Subject to subsection (e) of this Section, each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 11.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.12 as though it were a Lender.

(e) Limitation upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 3.01 or 3.04 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, not to be unreasonably withheld or delayed (it being agreed, without limitation, that it will be reasonable for the Borrower to withhold consent if giving consent would result in increased indemnification obligations at the time the participation takes effect or would be reasonably certain to result in increased indemnification obligations thereafter as a result of a Change in Law announced prior to the time the participation takes effect), provided that the Participant agrees to be subject to the provisions of Sections 3.06(a) and 11.13(a) as if it were a Lender. For the avoidance of doubt, a Participant entitled to benefits under Section 3.01, 3.04 or 3.05 shall be subject to all of the limitations and requirements of such Sections as if it were a Lender (including, in the case of Section 3.01, all of the limitations in the definition of Excluded Taxes).

(f) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Credit Agreement (including under its Note(s), if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) Electronic Execution of Assignments. The words "execution," "signed," "signature," and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a

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(h) **Special Purpose Funding Vehicles.** Notwithstanding anything to the contrary contained herein, any Lender (a "Granting Lender") may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower (an "SPC") the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to this Credit Agreement; provided that (i) nothing herein shall constitute a commitment by any SPC to fund any Loan, and (ii) if a SPC elects not to exercise such option or otherwise fails to make all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof or, if it fails to do so, to make such payment to the Administrative Agent as is required under Section 2.11(b)(i). Each party hereto hereby agrees that (i) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrower under this Credit Agreement (including its obligations under Section 3.04), (ii) no SPC shall be liable for any indemnity or similar payment obligation under this Credit Agreement for which a Lender would be liable, and (iii) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Credit Document, remain the lender of record hereunder. The making of a Loan by a SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Credit Agreement) that, prior to the date that is one (1) year and one (1) day after the payment in full of all outstanding commercial paper or other senior debt of any SPC, it will not institute against, or join any other Person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency, or liquidation proceeding under the laws of the United States or any State thereof. Notwithstanding anything to the contrary contained herein, any SPC may (i) with notice to, but without prior consent of the Borrower and the Administrative Agent and with the payment of a processing fee in the amount of \$2,500, assign all or any portion of its right to receive payment with respect to any Loan to the Granting Lender and (ii) disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or guarantee or credit or liquidity enhancement to such SPC. Each SPC shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 to the same extent as if it were a Granting Lender and had acquired its interest by assignment pursuant to Section 11.06(b). A SPC shall not be entitled to receive any greater payment under Section 3.01, 3.04 or 3.05 than the applicable Granting Lender would have been entitled to receive with respect to the interest granted to such SPC unless the grant of the interest is made with the Borrower's prior written consent, not to be unreasonably withheld or delayed (it being agreed, without limitation, that it will be reasonable for the Borrower to withhold consent if giving consent would result in increased indemnification obligations at the time the grant to the SPC takes effect or would be reasonably certain to result in increased indemnification obligations thereafter as a result of a Change in Law announced prior to the time the grant to the SPC takes effect), provided that the SPC agrees to be subject to the provisions of Sections 3.06(a) and 11.13(a) as if it were a Granting Lender. For the avoidance of doubt, a SPC entitled to benefits under Section 3.01, 3.04 or 3.05 shall be subject to all of the limitations and requirements of such Sections

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as if it were a Granting Lender (including, in the case of Section 3.01, all of the limitations in the definition of Excluded Taxes).

(i) **Resignation as L/C Issuer or Swingline Lender After Assignment.** Notwithstanding anything to the contrary contained herein, if at any time any L/C Issuer or Swingline Lender assigns all of its Commitment and Loans pursuant to subsection (b) above, such L/C Issuer or Swingline Lender may, (i) upon thirty (30) days' notice to the Borrower and the Lenders, resign as L/C Issuer and/or, in the case of Bank of America, (ii) upon thirty (30) days' notice to the Borrower, resign as Swingline Lender. In the event of any such resignation as L/C Issuer or Swingline Lender, the Borrower shall be entitled to appoint from among the Lenders a successor L/C Issuer or Swingline Lender hereunder; provided, however, that no failure by the Borrower to appoint any such successor shall affect the resignation of such L/C Issuer or Swingline Lender as L/C Issuer or Swingline Lender, as the case may be. If any L/C Issuer resigns as L/C Issuer, it shall retain all the rights, powers, privileges and duties of an L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c)). If any Swingline Lender resigns as Swingline Lender, it shall retain all the rights of the Swingline Lender provided for hereunder with respect to Swingline Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swingline Loans pursuant to Section 2.04(b). Upon the appointment of a successor L/C Issuer and/or Swingline Lender, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer or Swingline Lender, as the case may be, and (b) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to such resigning L/C Issuer to effectively assume the obligations of such resigning L/C Issuer with respect to such Letters of Credit.

#### **11.07 Treatment of Certain Information: Confidentiality.**

Each of the Administrative Agent, the Lenders and the L/C Issuers agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, trustees, advisors and representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Credit Document or any action or proceeding relating to this Credit Agreement or any other Credit Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Credit Agreement, (ii) any actual or prospective counterparty (or advisors) to any swap, derivative transaction relating to the Borrower and its obligations, (g) subject to each such Person being informed of the confidential nature of the Information and to their agreement to keep such Information confidential,

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to (i) an investor or prospective investor in securities issued by an Approved Fund that also agrees that Information shall be used solely for the purpose of evaluating an investment in such securities issued by the Approved Fund, (ii) a trustee, collateral manager, servicer, backup servicer, noteholder or secured party in securities issued by an Approved Fund in connection with the administration, servicing and reporting on the assets serving as collateral for securities issued by an Approved Fund, or (iii) a nationally recognized rating agency that requires access to information regarding the Credit Parties, the Loans and Credit Documents in connection with ratings issued in respect of securities issued by an Approved Fund, (h) with the consent of the Borrower or (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Administrative Agent, any Lender, any L/C Issuer or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower.

For purposes of this Section, "Information" means all information received from the Borrower or any Subsidiary relating to the Borrower or any Subsidiary or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or any L/C Issuer on a nonconfidential basis prior to disclosure by the Borrower or any Subsidiary. In the case of Information received from the Borrower or any Subsidiary after the date hereof, such Information is clearly identified at the time of delivery. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Each of the Administrative Agent, the Lenders and the L/C Issuers acknowledges that (a) the Information may include material non-public information concerning the Borrower or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable Law, including federal and state securities Laws.

#### **11.08 Right of Setoff.**



If an Event of Default shall have occurred and be continuing, each Lender, each L/C Issuer and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, such L/C Issuer or any such Affiliate to or for the credit or the account of the Borrower or any other Credit Party against any and all of the obligations of such Borrower or such Credit Party now or hereafter existing under this Credit Agreement or any other Credit Document to such Lender or such L/C Issuer, irrespective of whether or not such Lender or such L/C Issuer shall have made any demand under this Credit Agreement or any other Credit Document and although such obligations of such Borrower or such Credit Party may be contingent or unmatured or are owed to a branch or office of such Lender or such L/C Issuer different from the branch or office holding such deposit or obligated on such indebtedness. The rights of each Lender, each L/C Issuer and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, such L/C Issuer or their respective Affiliates may have.

Each Lender and each L/C Issuer agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

#### **11.09 Interest Rate Limitation.**

Notwithstanding anything to the contrary contained in any Credit Document, the interest paid or agreed to be paid under the Credit Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the "Maximum Rate"). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

#### **11.10 Counterparts; Integration; Effectiveness.**

This Credit Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Credit Agreement and the other Credit Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof, other than the conditions precedent set forth in the Commitment Letter. Except as provided in Section 5.01, this Credit Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Credit Agreement by telecopy or other electronic imaging means shall be as effective as delivery of a manually executed counterpart of this Credit Agreement.

#### **11.11 Survival of Representations and Warranties.**

All representations and warranties made hereunder and in any other Credit Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

#### **11.12 Severability.**

If any provision of this Credit Agreement or the other Credit Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Credit Agreement and the other Credit Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

#### **11.13 Replacement of Lenders.**

(a) If any Lender requests compensation under Section 3.04, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, or if any Lender is a Defaulting Lender or if any other circumstance exists hereunder that gives the Borrower the right to replace a Lender as a party hereto, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 11.06), all of its interests, rights and obligations under this Credit Agreement and the related Credit Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

- (i) the Borrower shall have paid to the Administrative Agent the assignment fee specified in Section 11.06(b);
- (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and L/C Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Credit Documents (including any amounts under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);
- (iii) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter;
- (iv) such assignment does not conflict with applicable Laws; and
- (v) such assignment is recorded in the Register.

A Lender that has assigned its interests, rights and obligations under this Credit Agreement and the related Credit Documents pursuant to this Section 11.13(a) shall continue to be entitled to the benefits of Sections 3.01, 3.04 and 3.06 with respect to the periods during which such Person was a Lender.

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A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

(b) If, in connection with any proposed amendment, change, waiver, discharge or termination of any of the provisions of this Credit Agreement or any other Credit Document as contemplated by Section 11.01, the consent of the Required Lenders (or Required Revolving Lenders or Required Term Lenders, as the case may be) is obtained but the consent of one or more of such other Lenders whose consent is required is not obtained (any such Lender whose consent is not obtained as described in this clause (b) being referred to as a "Non-Consenting Lender"), then, at the Borrower's request, any Eligible Assignee reasonably acceptable to the Administrative Agent shall have the right to purchase from such Non-Consenting Lender, and such Non-Consenting Lender agrees that it shall, upon the Administrative Agent's request, sell and assign to such Eligible Assignee, all of the Commitments and Loans of such Non-Consenting Lender for an amount equal to the principal balance of all Loans held by the Non-Consenting Lender and all accrued and unpaid interest and fees with respect thereto and all other amounts payable to it hereunder through the date of sale and payment by the Borrower to the Administrative Agent of the assignment fee under Section 11.06(b); provided, however, that such purchase and sale shall not be effective until (x) the Administrative Agent shall have received from such Eligible Assignee an agreement in form and substance satisfactory to the Administrative Agent and the Borrower whereby such Eligible Assignee shall agree to be bound by the terms hereof and (y) such Non-Consenting Lender shall have received payments of all Loans held by it and all accrued and unpaid interest and fees with respect thereto and all other amounts payable to it hereunder through the date of the sale. Each Lender agrees that, if it becomes a Non-Consenting Lender, it shall execute and deliver to the Administrative Agent an Assignment and Assumption to evidence such sale and purchase and shall deliver to the Administrative Agent any Note (if the assigning Lender's Loans are evidenced by a Note) subject to such Assignment and Assumption; provided, however, that the failure of any Non-Consenting Lender to execute an Assignment and Assumption shall not render such sale and purchase (and the corresponding assignment) invalid.

#### **11.14 Governing Law; Jurisdiction; Etc.**

(a) GOVERNING LAW. THIS CREDIT AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) SUBMISSION TO JURISDICTION. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NONEXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN THE BOROUGH OF MANHATTAN AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF SUCH STATE AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS CREDIT AGREEMENT OR ANY OTHER CREDIT DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE

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HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS CREDIT AGREEMENT OR IN ANY OTHER CREDIT DOCUMENT SHALL AFFECT ANY RIGHT THAT ANY PARTY HERETO MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS CREDIT AGREEMENT OR ANY OTHER CREDIT DOCUMENT AGAINST ANY OTHER PARTY HERETO OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) WAIVER OF VENUE. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS CREDIT AGREEMENT OR ANY OTHER CREDIT DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 11.02. NOTHING IN THIS CREDIT AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

#### **11.15 Waiver of Jury Trial.**

EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS CREDIT AGREEMENT OR ANY OTHER CREDIT DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS CREDIT AGREEMENT AND THE OTHER CREDIT DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

#### **11.16 USA PATRIOT Act Notice**

Each Lender that is subject to the Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower that pursuant to

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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 or the Administrative Agent, as applicable, to identify such Borrower in accordance with the Act.

#### **11.17 Designation as Senior Debt.**

All Obligations shall be "Designated Senior Indebtedness" (or such similar defined term) for purposes of all documentation governing Subordinated Debt.

#### **11.18 No Advisory or Fiduciary Responsibility.**

In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any

other Credit Document), the Borrower acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (i) (A) the arranging and other services regarding this Credit Agreement provided by the Agents and the Lead Arrangers are arm's-length commercial transactions between the Borrower and its Affiliates, on the one hand, and the Agents and the other Lead Arrangers, on the other hand, (B) the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) the Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Credit Documents; (ii) (A) each Agent and Lead Arranger is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrower or any of its Affiliates, or any other Person and (B) no Agent or Lead Arranger has any obligation to the Borrower or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Credit Documents; and (iii) the Agents and the Lead Arrangers and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and no Agent or any Lead Arranger has any obligation to disclose any of such interests to the Borrower or its Affiliates. To the fullest extent permitted by law, the Borrower hereby waives and releases any claims that it may have against any Agent or Lead Arranger with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

#### **11.19 Certain FCC Matters.**

Notwithstanding any provision to the contrary contained herein, in any other of the Credit Documents, Swap Contracts or other documents relating to the Obligations, the parties hereby acknowledge that any security interest in the Collateral granted hereunder, or in any other Credit Document, to the extent it relates to any of the FCC Licenses, is granted only to the extent permitted by applicable law.

Notwithstanding any provision to the contrary contained herein, in any other of the Credit Documents, Swap Contracts or other documents relating to the Obligations, no action shall be taken hereunder or thereunder by the Administrative Agent, Collateral Agent or any Lender with

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respect to any item of Collateral subject to restrictions under Communications Law unless and until all applicable requirements (if any) of the FCC under the Communications Laws, as well as any other federal, state or local laws, rules and regulations of other regulatory or governmental bodies applicable to or having jurisdiction over the Borrower or applicable Guarantor have been satisfied with respect to such action and there shall have been obtained such consents, approvals and authorizations (if any) as may be required to be obtained from the FCC and any other Governmental Authority under the terms of any FCC License or similar operating right held by the Borrower or any Guarantor. Without limiting the generality of the foregoing, the Administrative Agent, the Collateral Agent and the Lenders hereby agree that (a) voting and consensual rights in the ownership interests of any Credit Party holding or controlling any FCC Licenses will remain with the holders of such voting and consensual rights upon and following the occurrence of an Event of Default unless and until any required prior approvals of the FCC to the transfer of such voting and consensual rights shall have been obtained, (b) upon the occurrence of any Event of Default and foreclosure of such interests the Administrative Agent or Collateral Agent, as the case may be, shall determine whether there may be a private or public sale of such interests, and (c) prior to the exercise of such voting or consensual rights by the purchaser at any such sale, the prior consent of the FCC pursuant to 47 U.S.C. §310(d) shall be obtained if required. It is the intention of the parties hereto that the Liens in favor of the Administrative Agent on the Collateral shall in all relevant aspects be subject to and governed by such statutes, rules and regulations and that nothing in this Agreement shall be construed to diminish the control exercised by the Borrower or any Guarantor except in accordance with the provisions of such statutory requirements, rules and regulations. The Borrower and each Guarantor agree that, if an Event of Default shall have occurred and be continuing, upon request from time to time by the Administrative Agent or the Collateral Agent, the Borrower or such Guarantor will use its reasonable best efforts to obtain any governmental, regulatory or third party consents, approvals or authorizations referred to in this Section 11.19, which such efforts shall include, without limitation, the preparation, execution and filing with the FCC of (or causing to be prepared, signed and filed with the FCC) any applications for consent to the assignment of any FCC Licenses, or to the transfer of control of the Borrower or any Guarantor holding or controlling any FCC Licenses, required to be signed by the Borrower or such Guarantor which are, in the Administrative Agent's or Collateral Agent's reasonable determination, necessary, appropriate or desirable under the FCC's rules and regulations for approval of any sale or transfer of any of the voting or consensual rights or the assets of the Borrower or any Guarantor holding or controlling any FCC Licenses, or any transfer of control in respect of any FCC License held or controlled by the Borrower or any Guarantor.

## **ARTICLE XII**

### **FOREIGN CURRENCY PARTICIPATIONS**

#### **12.01 Alternative Currency Participations.**

Notwithstanding anything to the contrary contained herein, all Revolving Loans that are denominated in an Alternative Currency (each, an Alternative Currency Loan) shall be made solely by the Revolving Lenders (including the Alternative Currency Fronting Lender) who are Participating Alternative Currency Lenders (as defined below). Each Revolving Lender acceptable to the Alternative Currency Fronting Lender that has Alternative Currency Funding

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Capacity (a "Participating Alternative Currency Lender") shall irrevocably and unconditionally purchase and acquire and shall be deemed to irrevocably and unconditionally purchase and acquire from the Alternative Currency Fronting Lender, and the Alternative Currency Fronting Lender shall sell and be deemed to sell to each such Participating Alternative Currency Lender, without recourse or any representation or warranty whatsoever, an undivided interest and participation (an "Alternative Currency Participation") in each Revolving Loan which is an Alternative Currency Loan funded by the Alternative Currency Fronting Lender in an amount equal to such Participating Alternative Currency Lender's Pro Rata Share of the Borrowing that includes such Revolving Loan. Such purchase and sale of an Alternative Currency Participation shall be deemed to occur automatically upon the making of an Alternative Currency Loan by the Alternative Currency Fronting Lender, without any further notice to any Participating Alternative Currency Lender. The purchase price payable by each Participating Alternative Currency Lender to the Alternative Currency Fronting Lender for each Alternative Currency Participation purchased by it from the Alternative Currency Fronting Lender shall be equal to 100% of the principal amount of such Alternative Currency Participation (i.e., the product of (i) the amount of the Borrowing that includes the relevant Revolving Loan and (ii) such Participating Alternative Currency Lender's Pro Rata Share), and such purchase price shall be payable by each Participating Alternative Currency Lender to the Alternative Currency Fronting Lender in accordance with the settlement procedure set forth in Section 12.02 below. The Alternative Currency Fronting Lender and the Administrative Agent shall record on their books the amount of Revolving Loans made by the Alternative Currency Fronting Lender and each Participating Alternative Currency Lender's Alternative Currency Participation and Funded Alternative Currency Participation therein, all payments in respect thereof and interest accrued thereon and all payments made by and to each Participating Alternative Currency Lender pursuant to this Section 12.01.

For purposes of determining the Lenders comprising the "Required Lenders" or "Required Revolving Lenders" from and after the termination of the Revolving Commitments, (i) the Revolving Obligations of a Lender that is a Participating Alternative Currency Lender shall be deemed to include the amount of the sum of each Alternative Currency Participation of such Participating Alternative Currency Lender and (ii) the amount of the Revolving Obligations of the Alternative Currency Fronting Lender and its affiliates shall be reduced by an amount equal to the sum of each Alternative Currency Participation of such Participating Alternative Currency Lender.

#### **12.02 Settlement Procedure for Alternative Currency Participations.**

Each Participating Alternative Currency Lender's Alternative Currency Participation in the Alternative Currency Loans shall be in an amount equal to its Pro Rata Share of all such Alternative Currency Loans. However, in order to facilitate the administration of the Alternative Currency Loans made by the Alternative Currency Fronting Lender and the Alternative Currency Participations, settlement among the Alternative Currency Fronting Lender and the Participating Alternative Currency Lenders

with regard to the Participating Alternative Currency Lenders' Alternative Currency Participations shall take place in accordance with the following provisions:

(i) The Alternative Currency Fronting Lender and the Participating Alternative Currency Lenders shall settle (an "Alternative Currency Participation Settlement") by payments in respect of the Alternative Currency Participations as follows: so long as

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any Alternative Currency Loans are outstanding, Alternative Currency Participation Settlements shall be effected upon the request of the Alternative Currency Fronting Lender through the Administrative Agent on such Business Days as requested by the Alternative Currency Fronting Lender and as the Administrative Agent shall specify by a notice by telecopy, telephone or similar form of notice to each Participating Alternative Currency Lender requesting such Alternative Currency Participation Settlement (each such date on which an Alternative Currency Participation Settlement occurs herein called an "Alternative Currency Participation Settlement Date"), such notice to be delivered no later than 2:00 p.m. (New York Time) at least one Business Day prior to the requested Alternative Currency Participation Settlement Date. Alternative Currency Participation Settlements in respect of Alternative Currency Loans shall be made in the currency in which such Alternative Currency Loan was funded on the Alternative Currency Participation Settlement Date for such Alternative Currency Loans.

(ii) If any Participating Alternative Currency Lender fails to pay to the Alternative Currency Fronting Lender on any Alternative Currency Participation Settlement Date the full amount required to be paid by such Participating Alternative Currency Lender to the Alternative Currency Fronting Lender on such Alternative Currency Participation Settlement Date in respect of such Participating Alternative Currency Lender's Alternative Currency Participation (such Participating Alternative Currency Lender's "Alternative Currency Participation Settlement Amount") with the Alternative Currency Fronting Lender, the Alternative Currency Fronting Lender shall be entitled to recover such unpaid amount from such Participating Alternative Currency Lender, together with interest thereon (in the same respective currency or currencies as the relevant Alternative Currency Loans) at the Base Rate plus 2.00%. Without limiting the Alternative Currency Fronting Lender's rights to recover from any Participating Alternative Currency Lender any unpaid Alternative Currency Participation Settlement Amount payable by such Participating Alternative Currency Lender to the Alternative Currency Fronting Lender, the Administrative Agent shall also be entitled to withhold from amounts otherwise payable to such Participating Alternative Currency Lender an amount up to such Participating Alternative Currency Lender's unpaid Alternative Currency Participation Settlement Amount owing to the Alternative Currency Fronting Lender and apply such withheld amount to the payment of any unpaid Alternative Currency Participation Settlement Amount owing by such Participating Alternative Currency Lender to the Alternative Currency Fronting Lender.

(iii) A Participating Alternative Currency Lender which has a Funded Alternative Currency Participation shall be entitled to receive interest on such Funded Alternative Currency Participation to the same extent as if such Alternative Currency Lender was the direct holder of the portion of the Loan in which it purchased an Alternative Currency Participation (it being agreed that, promptly upon the receipt by the Alternative Currency Fronting Lender or any of its Affiliates of any interest in respect of any Loan in which a Participating Alternative Currency Lender has a Funded Alternative Currency Participation, the Alternative Currency Fronting Lender will pay or cause to be paid in immediately available funds (in the currency in which the respective Alternative Currency Loan was funded (or, if different, the currency in which such interest payments are actually received)) to such Participating Foreign Currency Lender an amount equal to (x) its ratable

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share of such interest minus 0.25% of such ratable share); provided that, for the avoidance of doubt, the Alternative Currency Fronting Lender shall only be required to pay or cause to be paid such amount to the extent it or any of its Affiliates has actually received the relevant interest payment in full; provided further that if it or its Affiliates receive less than full payment then such amount shall be reduced proportionately.

### **12.03 Obligations Irrevocable.**

The obligations of each Participating Alternative Currency Lender to purchase from the Alternative Currency Fronting Lender a participation in each Alternative Currency Loan made by the Alternative Currency Fronting Lender and to make payments to the Alternative Currency Fronting Lender with respect to such participation, in each case as provided herein, shall be irrevocable and not subject to any qualification or exception whatsoever, including any of the following circumstances:

- (i) any lack of validity or enforceability of this Credit Agreement or any of the other Credit Documents or of any Loans, against any Credit Party;
- (ii) the existence of any claim, setoff, defense or other right which any Credit Party may have at any time against the Administrative Agent, any Participating Alternative Currency Lender, or any other Person, whether in connection with this Credit Agreement, any Alternative Currency Loans, the transactions contemplated herein or any unrelated transactions;
- (iii) any application or misapplication of any proceeds of any Alternative Currency Loans;
- (iv) the surrender or impairment of any security for any Alternative Currency Loans;
- (v) the occurrence of any Default or Event of Default;
- (vi) the commencement or pendency of any events specified in Section 9.01(f) or (g), in respect of any Loan Party or any Restricted Subsidiaries; or
- (vii) the failure to satisfy the applicable conditions precedent set forth in Article V.

### **12.04 Recovery or Avoidance of Payments**

In the event any payment by or on behalf of the Borrower or any other Credit Party received by the Administrative Agent with respect to any Alternative Currency Loan made by the Alternative Currency Fronting Lender is thereafter set aside, avoided or recovered from the Administrative Agent in connection with any insolvency proceeding or due to any mistake of law or fact, each Participating Alternative Currency Lender shall, upon written demand by the Administrative Agent, pay to the Alternative Currency Fronting Lender (through the Administrative Agent) such Participating Alternative Currency Lender's Pro Rata Share of such amount set aside, avoided or recovered, together with interest at the rate and in the currency required to be

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paid by the Alternative Currency Fronting Lender or the Administrative Agent upon the amount required to be repaid by it.

### **12.05 Indemnification by Lenders.**

Each Participating Alternative Currency Lender agrees to indemnify the Alternative Currency Fronting Lender (to the extent not reimbursed by the Borrower and

without limiting the obligations of the Borrower hereunder or under any other Credit Document) ratably for any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses (including attorneys' fees) or disbursements of any kind and nature whatsoever that may be imposed on, incurred by or asserted against the Alternative Currency Fronting Lender in any way relating to or arising out of any Alternative Currency Loans or any action taken or omitted by the Alternative Currency Fronting Lender in connection therewith; provided that no Participating Alternative Currency Lender shall be liable for any of the foregoing to the extent it arises from the gross negligence or willful misconduct of the Alternative Currency Fronting Lender (as determined by a court of competent jurisdiction in a final non-appealable judgment). Without limiting the foregoing, each Participating Alternative Currency Lender agrees to reimburse the Alternative Currency Fronting Lender promptly upon demand for such Participating Alternative Currency Lender's ratable share of any costs or expenses payable by the Borrower to the Alternative Currency Fronting Lender in respect of the Alternative Currency Loans to the extent that the Alternative Currency Fronting Lender is not promptly reimbursed for such costs and expenses by the Borrower. The agreement contained in this Section 12.05 shall survive payment in full of all Alternative Currency Loans.

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

**HSN, INC.**, as Borrower

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

[ \_\_\_\_\_ ], as Guarantor

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

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**BANK OF AMERICA, N.A.**, as Administrative Agent, Collateral Agent, L/C Issuer, Swingline Lender and as a Lender

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

**MERRILL LYNCH CAPITAL CORPORATION**, as Syndication Agent

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

**MERRILL LYNCH BANK USA**, as a Lender

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

**BARCLAYS BANK PLC**, as Co-Documentation Agent and as a Lender

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

**JPMORGAN CHASE BANK, N.A.**, as Co-Documentation Agent and as a Lender

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

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**MORGAN STANLEY SENIOR FUNDING,  
INC.,** as Co-Documentation Agent and as a  
Lender

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

**WACHOVIA BANK, NATIONAL  
ASSOCIATION,** as Co-Documentation Agent,  
L/C Issuer and as a Lender

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

**[OTHER LENDERS]**

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

HSN, INC.  
as the Company

11.25% SENIOR NOTES DUE 2016

INDENTURE

Dated as of July 28, 2008

THE BANK OF NEW YORK MELLON

as Trustee

CROSS-REFERENCE TABLE

TIA Section	Indenture Section
303	1.03
310(a)(1)	7.10
(a)(2)	7.10
(a)(3)	N.A.
(a)(4)	N.A.
(b)	7.10
(c)	N.A.
311(a)	7.11
(b)	7.11
(c)	N.A.
312(a)	2.05
(b)	11.03
(c)	11.03
313(a)	7.06
(b)(1)	7.06
(b)(2)	7.07
(c)	7.06; 11.02
(d)	7.06
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(4)	4.04; 11.05
(b)	N.A.
(c)(1)	11.04
(c)(2)	11.04
(c)(3)	N.A.
(d)	N.A.
(e)	11.04; 11.05
(f)	N.A.
315(a)	7.01(b); 7.02
(b)	7.05; 11.02
(c)	7.01(a)
(d)	7.01(c)
(e)	6.11
316(a) (last sentence)	2.09
(a)(1)(A)	6.05
(a)(1)(B)	6.04
(a)(2)	N.A.
(b)	6.07
(c)	2.13
317(a)(1)	6.08
(a)(2)	6.09
(b)	2.04
318(a)	11.01
(c)	11.01

N.A. means Not Applicable.

Note: This Cross-Reference Table shall not, for any purposes, be deemed to be part hereof.

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INDENTURE dated as of July 28, 2008 between HSN, Inc. (the “*Issuer*”), a Delaware corporation and The Bank of New York Mellon, a New York banking corporation, as trustee (the “*Trustee*”).

The Issuer and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders of the Issuer’s 11.25% Senior Notes due 2016.

## RECITALS

The Issuer has duly authorized the execution and delivery hereof to provide for the issuance of the Notes.

All things necessary (i) to make the Notes, when executed by the Issuer and authenticated and delivered hereunder and duly issued by the Issuer and delivered hereunder, the valid and binding obligations of the Issuer and (ii) to make this Indenture a valid and legally binding agreement of the Issuer, all in accordance with their respective terms, have been done.

For and in consideration of the premises and the purchase of the Notes by the Holders thereof, it is mutually agreed as follows for the equal and ratable benefit of the Holders of the Notes.

## ARTICLE I

### DEFINITIONS AND INCORPORATION BY REFERENCE

#### SECTION 1.01. *Definitions.*

“*144A Global Note*” means a global note substantially in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depository or its nominee that will be issued in a denomination equal to the outstanding principal amount of the Notes sold in reliance on Rule 144A.

“*Acquired Debt*” means, with respect to any specified Person, Indebtedness of any other Person existing at the time such other Person merges with or into or becomes a Subsidiary of such specified Person, or Indebtedness incurred by such Person in connection with the acquisition of assets.

“*Affiliate*” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control” (including, with correlative meanings, the terms “controlling,” “controlled by” and “under common control with”), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise.

“*Agent*” means any Registrar, Paying Agent or co-registrar.

“*Applicable Procedures*” means, with respect to any transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depository that apply to such transfer or exchange.

“*Asset Acquisition*” means (1) an Investment by the Issuer or any Restricted Subsidiary of the Issuer in any other Person pursuant to which such Person shall become a Restricted Subsidiary of the Issuer or any Restricted Subsidiary of the Issuer, or shall be merged with or into the Issuer or any Restricted Subsidiary of the Issuer, or (2) the acquisition by the Issuer or any Restricted Subsidiary of the Issuer of the assets of any Person (other than a Restricted Subsidiary of the Issuer) which constitute all or substantially all of the assets of such Person or comprises any division or line of business of such Person.

“*Asset Sale*” means any sale, issuance, conveyance, transfer, lease, assignment or other disposition by the Issuer or any Restricted Subsidiary to any Person other than the Issuer or any Restricted Subsidiary (including by means of a merger or consolidation or through the issuance or sale of Equity Interests of Restricted Subsidiaries (other than Preferred Equity Interests of Restricted Subsidiaries issued in compliance with Section 4.09)) (collectively, for purposes of this definition, a “*transfer*”), in one transaction or a series of related transactions, of any assets of the Issuer or any of its Restricted Subsidiaries (other than sales of inventory and other transfers in the ordinary course of business). For purposes of this definition, the term “Asset Sale” shall not include:

- (a) transfers of cash or Cash Equivalents;
- (b) transfers of assets of the Issuer (including Equity Interests) that are governed by, and made in accordance with the first paragraph of Section 5.01;
- (c) Permitted Investments and Restricted Payments permitted under Section 4.07;

- (d) the creation of or realization on any Lien permitted under this Indenture;
- (e) transfers of damaged, worn-out or obsolete equipment or assets that, in the Issuer's reasonable judgment, are no longer used or useful in the business of the Issuer or its Restricted Subsidiaries;
- (f) sales or grants of licenses or sublicenses to use the patents, trade secrets, know-how and other intellectual property, and licenses, leases or subleases of other assets, of the Issuer or any Restricted Subsidiary to the extent not materially interfering with the business of Issuer and the Restricted Subsidiaries;
- (g) any transfer of receivables and related assets in connection with a Qualified Receivables Transaction;

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- (h) any transfer or series of related transfers that, but for this clause, would be Asset Sales, if the aggregate fair market value of the assets transferred in such transaction or series of related transactions does not exceed \$5.0 million; and
- (i) the Spin-Off and transfers of assets to Affiliates of the Issuer prior to the Spin-Off pursuant to the Transactions that are consistent with the pro forma financial information in, or otherwise described in, or contemplated by, the Offering Memorandum.

"*Bankruptcy Law*" means Title 11, U.S. Code or any similar federal or state law for the relief of debtors.

"Board of Directors" means:

- (1) with respect to a corporation, the board of directors of the corporation or, except in the context of the definition of "Change of Control," a duly authorized committee thereof;
- (2) with respect to a partnership, the Board of Directors of the general partner of the partnership; and
- (3) with respect to any other Person, the board or committee of such Person serving a similar function.

"*Broker-Dealer*" means any broker or dealer registered under the Exchange Act.

"*Business Day*" means any day other than a Legal Holiday.

"*Capital Lease Obligations*" means, as to any Person, the obligations of such Person under a lease that are required to be classified and accounted for as capital lease obligations under GAAP and, for purposes of this definition, the amount of such obligations at the time any determination thereof is to be made shall be the amount of the liability in respect of a capital lease that would at such time be so required to be capitalized on a balance sheet in accordance with GAAP.

"*Capital Stock*" means any and all shares, interests, participations, rights or other equivalents, however designated, of corporate stock or partnership or membership interests, whether common or preferred.

"Cash Equivalents" means:

- (a) United States dollars;
- (b) Government Securities having maturities of not more than twelve (12) months from the date of acquisition;

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(c) certificates of deposit, time deposits and eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers' acceptances with maturities not exceeding one year and overnight bank deposits, in each case with any commercial bank having capital and surplus in excess of \$500.0 million;

(d) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clauses (b) and (c) entered into with any financial institution meeting the qualifications specified in clause (c) above;

(e) commercial paper issued by any issuer bearing at least a "2" rating for any short-term rating provided by Moody's or S&P and maturing within two hundred seventy (270) days of the date of acquisition;

(f) variable or fixed rate notes issued by any issuer rated at least AA by S&P (or the equivalent thereof) or at least Aa2 by Moody's (or the equivalent thereof) and maturing within one (1) year of the date of acquisition;

(g) money market funds or programs (x) offered by any commercial or investment bank having capital and surplus in excess of \$500.0 million at least 95% of the assets of which constitute Cash Equivalents of the kinds described in clauses (a) through (f) of this definition, (y) offered by any other nationally recognized financial institution (i) at least 95% of the assets of which constitute Cash Equivalents of the kinds described in clauses (a) through (f), (ii) are rated AAA and (iii) the fund is at least \$4 billion or (z) registered under the Investment Company Act of 1940, as amended, that are administered by reputable financial institutions having capital and surplus of at least \$500.0 million and the portfolios of which are limited to investments of the character described in the foregoing subclauses hereof; and

(h) in the case of any Foreign Subsidiary, high quality short-term investments which are customarily used for cash management purposes in any country in which such Foreign Subsidiary operates.

"*Change of Control*" means the occurrence of one or more of the following events:

(a) the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the Exchange Act and the rules of the Commission thereunder as in effect on the Issue Date) other than one or more Permitted Holders of Equity Interests representing more than 50% (on a fully diluted basis) of the total voting power represented by the issued and outstanding Equity Interests of the Issuer then entitled to vote in the election of the Board of Directors of the Issuer generally;

(b) during any period of twelve (12) consecutive months, a majority of the members of the Board of Directors of the Issuer ceases to be composed of individuals who were either (i) nominated by the Board of Directors of the Issuer with the affirmative vote of a majority of the members of said Board of Directors at

nomination or election or (ii) appointed by directors so nominated or elected or appointed by Permitted Holders; or

(c) there shall be consummated any share exchange, consolidation or merger of the Issuer pursuant to which the Issuer's Equity Interests entitled to vote in the election of the Board of Directors of the Issuer generally would be converted into cash, securities or other property, or the Issuer sells, assigns, conveys, transfers, leases or otherwise disposes of all or substantially all of its assets, in each case other than pursuant to a share exchange, consolidation or merger of the Issuer in which Permitted Holders or the holders of the Issuer's Equity Interests entitled to vote in the election of the Board of Directors of the Issuer generally immediately prior to the share exchange, consolidation or merger have, directly or indirectly, at least a majority of the total voting power in the aggregate of all classes of Equity Interests of the continuing or surviving entity entitled to vote in the election of the Board of Directors of such Person generally immediately after the share exchange, consolidation or merger.

Notwithstanding the foregoing, a transaction will not be deemed to involve a Change of Control if (1) the Issuer becomes a direct or indirect wholly-owned subsidiary (the "*Sub Entity*") of a holding company and (2) holders of securities that represented 100% of the voting power of the Equity Interests of the Issuer immediately prior to such transaction (or other securities into which such securities are converted as part of such merger or consolidation transaction) own directly or indirectly at least a majority of the voting power of the Equity Interests of such holding company (and no Person or group other than a Permitted Holder owns, directly or indirectly, a majority of the voting power of the Equity Interests of such holding company); *provided* that, upon the consummation of any such transaction, "Change of Control" shall thereafter include any Change of Control of any direct or indirect parent of the Sub Entity.

"*Commission*" means the Securities and Exchange Commission.

"*Consolidated Cash Flow*" means, with respect to any Person for any period, the Consolidated Net Income of such Person for such period (i) plus, to the extent deducted in computing Consolidated Net Income:

- (a) provision for taxes based on income or profits;
- (b) Consolidated Interest Expense; and
- (c) Consolidated Non-Cash Charges of such Person for such period.

(ii) minus, to the extent not excluded from the calculation of Consolidated Net Income, non-cash gain or income of such Person for such period (except to the extent representing an accrual for future cash receipts).

"*Consolidated Fixed Charge Coverage Ratio*" means, with respect to any Person, the ratio of Consolidated Cash Flow of such Person during the most recently ended four full fiscal

quarters (the "*Measurement Period*") ending prior to the date of the transaction giving rise to the need to calculate the Consolidated Fixed Charge Coverage Ratio for which financial statements are available (the "*Transaction Date*") to Consolidated Fixed Charges of such Person for the Measurement Period. In addition to and without limitation of the foregoing, for purposes of this definition, "Consolidated Cash Flow" and "Consolidated Fixed Charges" shall be calculated after giving effect on a *pro forma* basis for the period of such calculation to:

- (1) the incurrence or repayment of any Indebtedness of such Person or any of its Restricted Subsidiaries (and the application of the proceeds thereof) giving rise to the need to make such calculation and any incurrence or repayment of other Indebtedness (and the application of the proceeds thereof), other than the incurrence or repayment of Indebtedness in the ordinary course of business to finance seasonal fluctuations in working capital needs pursuant to working capital facilities, occurring during the Measurement Period or at any time subsequent to the last day of the Measurement Period and on or prior to the Transaction Date, as if such incurrence or repayment, as the case may be (and the application of the proceeds thereof), occurred on the first day of the Measurement Period; and
- (2) any Asset Sales or other dispositions or Asset Acquisitions (including, without limitation, any Asset Acquisition giving rise to the need to make such calculation as a result of such Person or one of its Restricted Subsidiaries (including any Person who becomes a Restricted Subsidiary as a result of the Asset Acquisition) incurring, assuming or otherwise being liable for Acquired Debt and also including any Consolidated Cash Flow (including any Pro Forma Cost Savings) attributable to the assets which are the subject of the Asset Acquisition or Asset Sale or other disposition during the Measurement Period) occurring during the Measurement Period or at any time subsequent to the last day of the Measurement Period and on or prior to the Transaction Date, as if such Asset Sale or other disposition or Asset Acquisition (including the incurrence, assumption or liability for any such Acquired Debt) occurred on the first day of the Measurement Period.

Furthermore, in calculating "Consolidated Fixed Charges" for purposes of determining the denominator (but not the numerator) of this "Consolidated Fixed Charge Coverage Ratio":

- (1) interest on outstanding Indebtedness determined on a fluctuating basis as of the Transaction Date and which will continue to be so determined thereafter shall be deemed to have accrued at a fixed rate per annum equal to the rate of interest on such Indebtedness in effect on the Transaction Date; and
- (2) notwithstanding clause (1) above, interest on Indebtedness determined on a fluctuating basis, to the extent such interest is covered by agreements relating to Hedging Obligations, shall be deemed to accrue at the rate per annum resulting after giving effect to the operation of such agreements.

"*Consolidated Fixed Charges*" means, with respect to any Person for any period, the sum, without duplication, of:

- (1) Consolidated Interest Expense for such period; plus
- (2) the product of (x) the amount of all dividend payments on any series of Disqualified Stock of such Person or Preferred Equity Interest of such Person's Restricted Subsidiaries (other than dividends paid in Qualified Capital Stock and other than dividends paid by a Restricted Subsidiary of such Person to such Person or to a Restricted Subsidiary of such Person) paid, accrued or scheduled to be paid or accrued during such period times (y) a fraction, the numerator of which is one and the denominator of which is one minus the then current effective consolidated federal, state and local income tax rate of such Person, expressed as a decimal.

“*Consolidated Interest Expense*” means, with respect to any Person for any period, consolidated interest expense of such Person for such period, whether paid or accrued, including amortization of original issue discount and deferred financing costs, noncash interest payments and the interest component of Capital Lease Obligations, on a consolidated basis determined in accordance with GAAP; *provided, however*, that with respect to the calculation of the consolidated interest expense of the Issuer, the interest expense of Unrestricted Subsidiaries shall be excluded.

“*Consolidated Net Income*” means, with respect to any Person for any period, the aggregate of the Net Income of such Person and its Restricted Subsidiaries for such period, on a consolidated basis, determined in accordance with GAAP; *provided, however*, that:

- (a) the Net Income of any Person that is not a Subsidiary or that is accounted for by the equity method of accounting shall be included only to the extent of the amount of dividends or distributions paid in cash to the referent Person, in the case of a gain, or to the extent of any contributions or other payments by the referent Person, in the case of a loss;
- (b) the Net Income of any Person that is a Subsidiary that is not a Restricted Subsidiary shall be included only to the extent of the amount of dividends or distributions paid in cash to the referent Person;
- (c) solely for purposes of Section 4.07, the Net Income of any Subsidiary of such Person that is not a Guarantor shall be excluded to the extent that the declaration or payment of dividends or similar distributions is not at the time permitted by operation of the terms of its charter or bylaws or any other agreement, instrument, judgment, decree, order, statute, rule or government regulation to which it is subject;
- (d) the cumulative effect of a change in accounting principles shall be excluded;

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- (e) any after-tax effect of income (loss) (x) from the early extinguishment of Indebtedness or Hedging Obligations or other derivative instruments, (y) sales or dispositions of assets (other than in the ordinary course of business), or (z) that is extraordinary or non-recurring shall be excluded;
  - (f) any non-cash compensation expense recorded from grants of stock appreciation or similar rights, stock options, restricted stock or other rights shall be excluded;
  - (g) any non-cash impairment charge or asset write-off, in each case, pursuant to GAAP, and the amortization of intangibles arising pursuant to GAAP shall be excluded;
  - (h) any fees, expenses and other charges in connection with the Transactions or any acquisition, investment, asset disposition, issuance or repayment of debt, issuance of Equity Interests, refinancing transaction or amendment or other modification of any debt instrument shall be excluded; and
  - (i) gains and losses resulting solely from fluctuations in foreign currencies shall be excluded.

“*Consolidated Non-Cash Charges*” means, with respect to any Person for any period, the aggregate depreciation, amortization, impairment, compensation, rent, other non-cash expenses and write-offs and write-downs of assets of such Person and its Restricted Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with GAAP, but excluding any such charge which consists of or requires an accrual of, or cash reserve for, anticipated cash charges for any future period.

“*Consolidated Secured Indebtedness Leverage Ratio*” means, as of any date of determination, the ratio of (1) the Total Secured Debt as of such date of determination to (2) Consolidated Cash Flow of the Issuer for the period of the most recent four consecutive fiscal quarters for which internal financial statements are available, with such *pro forma* and other adjustments to each of Total Secured Debt and Consolidated Cash Flow as are appropriate and consistent with the *pro forma* and other adjustment provisions set forth in the definition of Consolidated Fixed Charge Coverage Ratio.

“*Consolidated Senior Indebtedness Leverage Ratio*” means, as of any date of determination, the ratio of (1) the Total Senior Debt as of such date of determination to (2) Consolidated Cash Flow of the Issuer for the period of the most recent four consecutive fiscal quarters for which internal financial statements are available, with such *pro forma* and other adjustments to each of Total Senior Debt and Consolidated Cash Flow as are appropriate and consistent with the *pro forma* and other adjustment provisions set forth in the definition of Consolidated Fixed Charge Coverage Ratio.

“*Consolidated Total Assets*” shall mean, as of any date of determination for any Person, the total assets of such Person and its Subsidiaries on a consolidated basis, as shown on

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the most recent balance sheet of such Person immediately preceding such date of determination.

“*Corporate Trust Office of the Trustee*” shall be at the address of the Trustee specified in Section 11.02 or such other address as to which the Trustee may give notice to the Issuer or Holders pursuant to the procedures set forth in Section 11.02.

“*Credit Agreement*” means the credit agreement dated as of the Issue Date (or, if applicable, on or about the date of Release) by and among the Issuer, as borrower, the lenders party thereto from time to time, Bank of America, N.A., as administrative agent, and Merrill Lynch Capital Corporation, as syndication agent, together with the related documents thereto (including, without limitation, any guarantee agreements and security documents) as such agreement or facility may be amended (including any amendment and restatement thereof), supplemented or otherwise modified from time to time, including any agreement exchanging, extending the maturity of, refinancing, renewing, replacing, substituting or otherwise restructuring, whether in the bank or debt capital markets (or combination thereof) (including increasing the amount of available borrowings thereunder or adding Subsidiaries as additional borrowers or guarantors thereunder) all or any portion of the Indebtedness under such agreement or facility or any successor or replacement agreement or facility.

“*Credit Facilities*” means one or more credit agreements or debt facilities to which the Issuer and/or one or more of its Restricted Subsidiaries is party from time to time (including without limitation the Credit Agreement), in each case with banks, investment banks, insurance companies, mutual funds or other lenders or institutional investors providing for revolving credit loans, term loans, debt securities, bankers acceptances, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables) or letters of credit, in each case as such agreements or facilities may be amended (including any amendment and restatement thereof), supplemented or otherwise modified from time to time, including any agreement exchanging, extending the maturity of, refinancing, renewing, replacing, substituting or otherwise restructuring, whether in the bank or debt capital markets (or combination thereof) (including increasing the amount of available borrowings thereunder or adding Subsidiaries as additional borrowers or guarantors thereunder) all or any portion of the Indebtedness under such agreement or facility or any successor or replacement agreement or facility.

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

“*Definitive Note*” means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06 hereof, substantially in the form of Exhibit A hereto except that such Note shall not bear the Global Note Legend and shall not have the “Schedule of Exchanges of Interests in the Global Note” attached thereto.

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“*Depository*” means The Depository Trust Company and any and all successors thereto appointed as depository hereunder and having become such pursuant to an applicable provision hereof.

“*Disqualified Stock*” means any Capital Stock which, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the Holders thereof, in whole or in part, on or prior to the date on which the Notes mature; *provided, however*, that any such Capital Stock may require the issuer of such Capital Stock to make an offer to purchase such Capital Stock upon the occurrence of certain events if the terms of such Capital Stock provide that such an offer may not be satisfied and the purchase of such Capital Stock may not be consummated until the 91st day after the purchase of the Notes as required by Section 4.15.

“*Domestic Cash Amount*” means the amount of cash and Cash Equivalents reflected in the bank statements of the Issuer and its Domestic Subsidiaries immediately after giving effect to the Transactions in an aggregate amount not to exceed \$50 million.

“*Domestic Restricted Subsidiaries*” shall mean all Restricted Subsidiaries that are Domestic Subsidiaries.

“*Domestic Subsidiaries*” shall mean all Subsidiaries incorporated, formed or organized under the laws of the United States of America, any State thereof or the District of Columbia.

“*Eligible Institution*” means a commercial banking institution that has combined capital and surplus of not less than \$500.0 million or its equivalent in foreign currency, whose debt is rated by at least two nationally recognized statistical rating organizations in one of each such organization’s four highest generic rating categories at the time as of which any investment or rollover therein is made.

“*Equity Interests*” means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

“*Exchange Act*” means the Securities Exchange Act of 1934, as amended.

“*Exchange Notes*” means the Notes issued in the Exchange Offer pursuant to Section 2.06(f) hereof or pursuant to a registered exchange offer for Notes with a Private Placement Legend issued after the Issue Date.

“*Exchange Offer*” has the meaning set forth in the Registration Rights Agreement.

“*Exchange Offer Registration Statement*” has the meaning set forth in the Registration Rights Agreement.

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“*Existing Indebtedness*” means any Indebtedness (other than the Notes and the Guarantees) of the Issuer and its Subsidiaries in existence on the Issue Date after giving effect to the use of proceeds from this offering contemplated by the Offering Memorandum until such amounts are repaid.

“*Financing Subsidiary*” means a Subsidiary of the Issuer:

- (1) that is formed solely for the purpose of, and that engages in no activities other than activities in connection with, financing the purchase of customer premise and receiving equipment (including delivery and installation costs) by the Issuer’s retail customers;
- (2) that is designated by the Issuer as a Financing Subsidiary;
- (3) no portion of the Indebtedness or any other obligation (contingent or otherwise) of which (a) is at any time guaranteed by the Issuer or any Restricted Subsidiary, (b) is at any time recourse to or obligates the Issuer or any Restricted Subsidiary in any way or (c) subjects any asset of the Issuer or any other Restricted Subsidiary, directly or indirectly, contingently or otherwise, to the satisfaction thereof;
- (4) with which neither the Issuer nor any Restricted Subsidiary has any material contract, agreement, arrangement or understanding other than contracts, agreements, arrangements and understandings entered into in the ordinary course of business on terms no less favorable to the Issuer or such Restricted Subsidiary than those that might be obtained at the time from Persons that are not the Issuer’s Affiliates; and
- (5) with respect to which neither the Issuer nor any Restricted Subsidiary has any obligation (a) to subscribe for additional shares of Capital Stock therein or make any additional capital contribution or similar payment or transfer thereto or (b) to maintain or preserve the solvency or any balance sheet term, financial condition, level of income or results of operations thereof.

“*Foreign Currency Obligations*” means, with respect to any Person, the obligations of such Person pursuant to any foreign exchange contract, currency swap agreement or other similar agreement or arrangement designed to protect the Issuer or any Restricted Subsidiary of the Issuer against fluctuations in currency values.

“*Foreign Subsidiary*” shall mean (i) any Subsidiary that is not incorporated, formed or organized under the laws of the United States of America, any state thereof or the District of Columbia and (ii) any Subsidiary of a Subsidiary described in the foregoing clause (i).

“*GAAP*” means United States generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession of the United States, which are applicable as of

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the date of determination; *provided* that, except as otherwise specifically provided, all calculations made for purposes of determining compliance with the terms of the

provisions of this Indenture shall utilize GAAP as in effect on the Issue Date.

“*Global Note Legend*” means the legend set forth in Section 2.01(b) hereof, which is required to be placed on all Global Notes issued under this Indenture.

“*Global Notes*” means, individually and collectively, each of the Restricted Global Notes and the Unrestricted Global Notes, substantially in the form of Exhibit A hereto, issued in accordance with Section 2.01 or 2.06 hereof.

“*Government Securities*” means direct obligations of, or obligations guaranteed or insured by, the United States or any agency or instrumentality thereof for the payment of which guarantee or obligations the full faith and credit of the United States is pledged.

“*guarantee*” means a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business), direct or indirect, in any manner (including, without limitation, letters of credit and reimbursement agreements in respect thereof), of all or any part of any Indebtedness.

“*Guarantee*” means a guarantee by a Guarantor of the Notes.

“*Guarantor*” means any direct or indirect Domestic Restricted Subsidiary of the Issuer that guarantees the Notes and its successors and assigns.

“*Hedging Obligations*” means, with respect to any Person, the obligations of such Person pursuant to any arrangement with any other Person, whereby, directly or indirectly, such Person is entitled to receive from time to time periodic payments calculated by applying either floating or a fixed rate of interest on a stated notional amount in exchange for periodic payments made by such other Person calculated by applying a fixed or a floating rate of interest on the same notional amount and shall include, without limitation, interest rate swaps, caps, floors, collars and similar agreements designed to protect such Person against fluctuations in interest rates.

“*Holder*” means, with respect to any Note, the Person in whose name such Note is registered with the Registrar.

“*IAC*” means IAC/InterActiveCorp, a Delaware corporation.

“*Indebtedness*” means, with respect to any Person, any indebtedness of such Person, whether or not contingent, in respect of borrowed money or evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof, but excluding, in any case, any undrawn letters of credit) or representing the balance deferred and unpaid of the purchase price of any property (including pursuant to capital leases) or representing any Hedging Obligations or Foreign Currency Obligations, except any such balance that constitutes an accrued expense or trade payable, if and to the extent any of

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the foregoing (other than Hedging Obligations or Foreign Currency Obligations) would appear as a liability upon a balance sheet of such Person prepared in accordance with GAAP, and also includes, to the extent not otherwise included, the amount of all obligations of such Person with respect to the redemption, repayment or other repurchase of any Disqualified Stock or, with respect to any Restricted Subsidiary of such Person, the liquidation preference with respect to, any Preferred Equity Interests (but excluding, in each case, any accrued dividends) as well as the guarantee of items that would be included within this definition.

“*Indenture*” means this Indenture, as amended or supplemented from time to time.

“*Independent Financial Advisor*” means a Person or entity which, in the judgment of the Board of Directors of the Issuer, is independent and otherwise qualified to perform the task for which it is to be engaged.

“*Indirect Participant*” means a Person who holds a beneficial interest in a Global Note through a Participant.

“*Initial Notes*” means the \$240.0 million aggregate principal amount of 11.25% Senior Notes due 2016 of the Issuer issued under this Indenture on the Issue Date.

“*Initial Purchasers*” means, with respect to the Initial Notes, Banc of America Securities LLC, J.P. Morgan Securities Inc., Morgan Stanley & Co. Incorporated, Merrill Lynch, Pierce, Fenner & Smith Incorporated, Wachovia Capital Markets, LLC, Barclays Capital Inc., Scotia Capital (USA) Inc., Daiwa Securities America Inc., Morgan Keegan & Company, Inc., Wells Fargo Securities, LLC, BB&T Capital Markets, a division of Scott & Stringfellow, Inc., and Fifth Third Securities, Inc.

“*Investment Grade*” designates a rating of BBB- or higher by S&P or Baa3 or higher by Moody’s or the equivalent of such ratings by S&P or Moody’s. In the event that the Issuer shall select any other Rating Agency, the equivalent of such ratings by such Rating Agency shall be used.

“*Investments*” means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the forms of loans (including guarantees), advances or capital contributions, purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities and all other items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP (excluding accounts receivable, deposits and prepaid expenses in the ordinary course of business, endorsements for collection or deposits arising in the ordinary course of business, and commission, travel and similar advances to officers and employees made in the ordinary course of business). For purposes of Section 4.07, the sale of Equity Interests of a Person that is a Restricted Subsidiary following which such Person ceases to be a Subsidiary shall be deemed to be an Investment by the Issuer in an amount equal to the fair market value of the Equity Interests of such Person held by the Issuer and its Restricted Subsidiaries immediately following such sale.

“*Issue Date*” means July 28, 2008.

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“*Legal Holiday*” means a Saturday, a Sunday or a day on which banking institutions in the City of New York or at a place of payment are authorized by law, regulation or executive order to remain closed.

“*Letter of Transmittal*” means the letter of transmittal to be prepared by the Issuer and sent to all Holders of the Notes for use by such Holders in connection with the Exchange Offer.

“*Liberty*” means Liberty Media Corporation, a Delaware corporation.

“*Lien*” means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law (including any conditional sale or other title retention agreement and any lease in the nature thereof).

“*Make Whole Amount*” means, with respect to any Note at any redemption date, as determined by the Issuer, the greater of (i) 1.0% of the principal amount of such Note and (ii) the excess, if any, of (A) an amount equal to the present value of (1) the redemption price of such Note at August 1, 2012 plus (2) the remaining scheduled interest payments on the Notes to be redeemed (subject to the right of Holders on the relevant record date to receive interest due on the relevant interest payment date) to

August 1, 2012 (other than interest accrued to the redemption date), computed using a discount rate equal to the Treasury Rate plus 50 basis points over (B) the principal amount of the Notes to be redeemed.

“*Marketable Securities*” means: (a) Government Securities; (b) any certificate of deposit maturing not more than 365 days after the date of acquisition issued by, or time deposit of, an Eligible Institution; (c) commercial paper maturing not more than 365 days after the date of acquisition issued by a corporation (other than an Affiliate of the Issuer) with a rating by at least two nationally recognized statistical rating organizations in one of each such organization’s four highest generic rating categories at the time as of which any investment therein is made, issued or offered by an Eligible Institution; (d) any bankers’ acceptances or money market deposit accounts issued or offered by an Eligible Institution; and (e) any fund investing exclusively in investments of the types described in clauses (a) through (d) above.

“*Moody’s*” means Moody’s Investors Service, Inc.

“*Net Income*” means, with respect to any Person, the net income (loss) of such Person, determined in accordance with GAAP.

“*Net Proceeds*” means the aggregate cash proceeds received by the Issuer or any of its Restricted Subsidiaries, as the case may be, in respect of any Asset Sale, net of the direct costs relating to such Asset Sale (including, without limitation, legal, accounting and investment banking fees, and sales commissions) and any relocation expenses incurred as a result thereof, taxes paid or payable as a result thereof (estimated reasonably and in good faith by the Issuer and after taking into account any available tax credits or deductions and any tax sharing arrangements), amounts required to be applied to the repayment of Indebtedness secured by a

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Lien on the asset or assets that are the subject of such Asset Sale, any reserve for adjustment in respect of the sale price of such asset or assets and any reserve in accordance with GAAP against any liabilities associated with the asset disposed of in such Asset Sale and retained by the Issuer or any of its Subsidiaries after such Asset Sale, including pension and other post-employment benefit liabilities and liabilities related to environmental matters, or against any indemnification obligations associated with such Asset Sale. Net Proceeds shall exclude any non-cash proceeds received from any Asset Sale, but shall include such proceeds when and as converted by the Issuer or any Restricted Subsidiary to cash.

“*Non-U.S. Person*” means a Person who is not a U.S. Person.

“*Notes*” means the Initial Notes, the Exchange Notes and any other notes issued after the Issue Date in accordance with the fourth paragraph of Section 2.02 hereof treated as a single class of securities.

“*Obligations*” means any principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

“*Offering Memorandum*” means the offering memorandum dated July 16, 2008 relating to and used in connection with the initial offering of the Initial Notes.

“*Officer*” means, with respect to any Person, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, Controller, Secretary or any Vice President of such Person, or any other officer designated by the Board of Directors.

“*Officers’ Certificate*” means a certificate signed on behalf of the Issuer by two Officers of such Person or of such Person’s partner or managing member, one of whom must be the principal executive officer, principal financial officer, treasurer or principal accounting officer of such Person or of such Person’s partner or managing member, that meets the requirements of Section 11.05.

“*Opinion of Counsel*” means an opinion, satisfactory to the Trustee, from legal counsel, who may be an employee of or counsel to the Issuer or any Subsidiary of the Issuer, that meets the requirements of Section 11.05.

“*Outstanding Receivables Amount*” shall mean, at any time, the aggregate outstanding balance of advances made to a Non-Receivables Recourse Subsidiary in a Qualified Receivables Transaction by a Person other than the Issuer or a Restricted Subsidiary in connection with a Qualified Receivables Transaction.

“*Parent*” means IAC and its successors, in each case together with each Subsidiary of Parent that beneficially owns any Equity Interests of the Issuer.

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“*Participant*” means, with respect to the Depository, a Person who has an account with the Depository.

“*Permitted Business*” means the businesses of the Issuer and its Restricted Subsidiaries conducted (or proposed to be conducted) on the Issue Date and any business reasonably related, ancillary or complimentary thereto and any reasonable extension or evolution of any of the foregoing.

“*Permitted Holder*” means each of (a) prior to the Spin-Off, IAC and its Subsidiaries, (b) any Person who acquires beneficial ownership of Equity Interests of the Issuer in a transaction constituting a Change of Control as to which a Change of Control Offer is consummated and (c) any Affiliate of the foregoing formed by such Person for purposes of holding its equity investment in the Issuer (but excluding any other portfolio company of any such Person). For the avoidance of doubt, following the Spin-Off, neither IAC nor Liberty (and their respective Affiliates) will be a Permitted Holder unless and until they have satisfied their obligations under clause (b) above.

“*Permitted Investments*” means:

- (a) Investments in the Issuer or in a Restricted Subsidiary;
- (b) Investments in Cash Equivalents and Marketable Securities;
- (c) any guarantee of obligations of the Issuer or a Restricted Subsidiary permitted by Section 4.09;
- (d) Investments by the Issuer or any of its Subsidiaries in a Person if, as a result of such Investment: (i) such Person becomes a Restricted Subsidiary or (ii) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Issuer or a Restricted Subsidiary;
- (e) Investments received in settlement of debts created in the ordinary course of business and owing to the Issuer or any of its Restricted Subsidiaries, in satisfaction of judgments or as payment on a claim made in connection with any bankruptcy, liquidation, receivership or other insolvency proceeding;
- (f) Investments in existence on the Issue Date;



(g) Investments in any Person to the extent such Investment represents the non-cash portion of the consideration received for an Asset Sale that was made pursuant to and in compliance with Section 4.10 or for an asset disposition that does not constitute an Asset Sale;

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(h) loans or advances or other similar transactions with customers, distributors, clients, developers, suppliers or purchasers or sellers of goods or services, in each case, in the ordinary course of business, regardless of frequency;

(i) other Investments in an amount not to exceed the greater of (x) \$40 million and (y) 1.0% of Consolidated Total Assets outstanding at any time for all such Investments made after the Issue Date, plus, so long as no Default or Event of Default shall have occurred or be continuing, the Domestic Cash Amount;

(j) any Investment by the Issuer or any Restricted Subsidiary in a Receivables Subsidiary or any Investment by a Receivables Subsidiary in any other Person in connection with a Qualified Receivables Transaction, so long as any Investment in a Receivables Subsidiary is in the form of a Purchase Money Note or an Investment in Capital Stock;

(k) any Investment solely in exchange for the issuance of the Issuer's Qualified Capital Stock; and

(l) any investment in connection with Hedging Obligations and Foreign Currency Obligations otherwise permitted under this Indenture.

"Permitted Liens" means:

(a) Liens securing the Notes and Liens securing any Guarantee;

(b) Liens securing (x) up to \$300.0 million of Indebtedness under any Credit Facility (and related Hedging Obligations and cash management obligations to the extent such Liens arise under the definitive documentation governing such Indebtedness and the incurrence of such obligations is not otherwise prohibited by this Indenture) permitted by clause (2) of Section 4.09(b) and (y) other Indebtedness permitted under Section 4.09; *provided* that, in the case of any such Indebtedness described in this subclause (y), such Indebtedness, when aggregated with the amount of Indebtedness of the Issuer and the Guarantors which is secured by a Lien, does not cause the Consolidated Secured Indebtedness Leverage Ratio to exceed 1.25 to 1.0 as of the last day of the most recent quarter for which internal financial statements are available on the date such Indebtedness is incurred;

(c) Liens securing (i) Hedging Obligations and Foreign Currency Obligations permitted to be incurred under Section 4.09 and (ii) cash management obligations not otherwise prohibited by this Indenture;

(d) Liens securing Purchase Money Indebtedness permitted under Section 4.09(b)(6); *provided* that such Liens do not extend to any assets of the Issuer or its Restricted Subsidiaries other than the assets so acquired, constructed, installed or improved, products and proceeds thereof and insurance proceeds with respect thereto;

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(e) Liens on property of a Person existing at the time such Person is merged into or consolidated with the Issuer or any of its Restricted Subsidiaries; *provided* that such Liens were not incurred in connection with, or in contemplation of, such merger or consolidation and do not apply to any assets other than the assets of the Person acquired in such merger or consolidation;

(f) Liens on property of an Unrestricted Subsidiary at the time that it is designated as a Restricted Subsidiary pursuant to the definition of "Unrestricted Subsidiary"; *provided* that such Liens were not incurred in connection with, or contemplation of, such designation;

(g) Liens on property existing at the time of acquisition thereof by the Issuer or any of its Restricted Subsidiaries; *provided* that such Liens were not incurred in connection with, or in contemplation of, such acquisition and do not extend to any assets of the Issuer or any of its Restricted Subsidiaries other than the property so acquired, constructed, installed or improved, products and proceeds thereof and insurance proceeds with respect thereto;

(h) Liens to secure the performance of statutory obligations, surety or appeal bonds or performance bonds, or landlords', carriers', warehousemen's, mechanics', suppliers', materialmen's or other like Liens, in any case incurred in the ordinary course of business and with respect to amounts not yet delinquent or being contested in good faith by appropriate process of law, if a reserve or other appropriate provision, if any, as is required by GAAP is made therefor;

(i) Liens existing on the Issue Date;

(j) Liens for taxes, assessments or governmental charges or claims that are not yet delinquent or that are being contested in good faith by appropriate proceedings; *provided* that any reserve or other appropriate provision as shall be required in conformity with GAAP is made therefor;

(k) Liens securing Indebtedness permitted under Section 4.09(b)(10); *provided* that such Liens shall not extend to assets other than the assets that secure such Indebtedness being refinanced;

(l) Liens on the Capital Stock of a Receivables Subsidiary and accounts receivable and related assets described in the definition of Qualified Receivables Transaction, in each case, incurred in connection with a Qualified Receivables Transaction;

(m) Liens (other than Liens created or imposed under ERISA) incurred or deposits made by the Issuer or any of its Restricted Subsidiaries in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security, or to secure the performance of tenders, statutory obligations, bids, leases, government contracts, performance and return-of-money bonds and

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other similar obligations (exclusive of obligations for the payment of borrowed money);

(n) easements, rights-of-way, covenants, restrictions (including zoning restrictions), minor defects or irregularities in title and other similar charges or encumbrances not, in any material respect, impairing the use of the encumbered property for its intended purposes;

(o) licenses, sublicenses, leases or subleases granted to others not interfering in any material respect with the business of the Issuer or its Restricted

Subsidiaries;

- (p) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods and Liens deemed to exist in connection with Investments in repurchase agreements that constitute Cash Equivalents;
- (q) normal and customary rights of setoff upon deposits of cash in favor of banks or other depository institutions;
- (r) Liens of a collection bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection;
- (s) Liens not provided for in clauses (a) through (r) above so long as the Notes are secured by the assets subject to such Liens on an equal and ratable basis or on a basis prior to such Liens; *provided* that to the extent that such Lien secures Indebtedness that is subordinated to the Notes, such Lien shall be subordinated to and be later in priority than the Notes on the same basis;
- (t) Liens securing Indebtedness of any Foreign Subsidiary incurred in accordance with Section 4.09(b)(16);
- (u) Liens in favor of the Issuer or any Guarantor;
- (v) Liens securing reimbursement obligations with respect to commercial letters of credit which solely encumber goods and/or documents of title and other property relating to such letters of credit and products and proceeds thereof;
- (w) extensions, renewals or refundings of any Liens referred to in clause (e), (g) or (i) above *provided* that any such extension, renewal or refunding does not extend to any assets or secure any Indebtedness not securing or secured by the Liens being extended, renewed or refinanced; and
- (x) other Liens securing Indebtedness that is permitted by the terms of this Indenture to be outstanding having an aggregate principal amount at any one time outstanding not to exceed \$40 million.

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“*Person*” means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust or unincorporated organization (including any subdivision or ongoing business of any such entity or substantially all of the assets of any such entity, subdivision or business).

“*Preferred Equity Interest*” in any Person, means an Equity Interest of any class or classes (however designated) which is preferred as to the payment of dividends or distributions, or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such Person, over Equity Interests of any other class in such Person.

“*Private Placement Legend*” means the legend set forth in Section 2.01(c) hereof to be placed on all Notes issued under this Indenture except where otherwise permitted by the provisions hereof.

“*Pro Forma Cost Savings*” means, with respect to any period, the reduction in net costs and expenses and related adjustments that (i) were directly attributable to an acquisition, merger, consolidation or disposition that occurred during the four-quarter reference period or subsequent to the four-quarter reference period and on or prior to the date of determination and calculated on a basis that is consistent with Regulation S-X under the Securities Act as in effect and applied as of the Issue Date, (ii) were actually implemented by the business that was the subject of any such acquisition, merger, consolidation or disposition within 12 months after the date of the acquisition, merger, consolidation or disposition and prior to the date of determination that are supportable and quantifiable by the underlying accounting records of such business or (iii) relate to the business that is the subject of any such acquisition, merger, consolidation or disposition and that are probable in the reasonable judgment of the Issuer based upon specifically identifiable actions to be taken within 12 months of the date of the acquisition, merger, consolidation or disposition (regardless of whether such cost savings or operating improvements could then be reflected in pro forma financial statements in accordance with Regulation S-X under the Securities Act or any other regulation or policy related thereto) and, in the case of each of (i), (ii) and (iii), are described, as provided below, in an Officers’ Certificate, as if all such reductions in costs had been effected as of the beginning of such period. Pro Forma Cost Savings described above shall be accompanied by an Officers’ Certificate delivered to the Trustee from the chief financial officer or chief accounting officer of the Issuer that outlines the actions taken or to be taken, the net cost savings or operating improvements achieved or expected to be achieved from such actions and that, in the case of clause (iii) above, such savings have been determined by the Issuer to be probable.

“*Purchase Money Indebtedness*” means Indebtedness (including Capital Lease Obligations) incurred (within 365 days of such purchase) to finance or refinance the purchase (including in the case of Capital Lease obligations the lease), construction, installation or improvement of any assets used or useful in a Permitted Business (whether through the direct purchase of assets or through the purchase of Capital Stock of any Person owning such assets); *provided* that the amount of Indebtedness thereunder does not exceed 100% of the purchase cost of such assets and costs incurred in such construction, installation or improvement.

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“*Purchase Money Note*” means a promissory note of a Receivable Subsidiary to the Issuer or any Restricted Subsidiary, which note must be repaid from cash available to the Receivable Subsidiary, other than amounts required to be established as reserves pursuant to agreements, amounts paid to investors in respect of interest, principal and other amounts owing to such investors and amounts paid in connection with the purchase of newly generated receivables.

“*QIB*” means a “qualified institutional buyer” as defined in Rule 144A.

“*Qualified Capital Stock*” means any Capital Stock of the Issuer that is not Disqualified Stock.

“*Qualified Receivables Transaction*” means any transaction or series of transactions entered into by the Issuer or any of its Restricted Subsidiaries pursuant to which the Issuer or such Restricted Subsidiary sells, conveys or otherwise transfers (including the grant of a backup security interest in the assets purported to be transferred for any such sale, conveyance or transfer) to (a) a Receivables Subsidiary (in the case of a transfer by the Issuer or any of the Restricted Subsidiaries) or (b) any other Person (in the case of a transfer by a Receivables Subsidiary), or grants a security interest in, any accounts receivable (whether now existing or arising in the future) of the Issuer or any of its Restricted Subsidiaries, and any assets related thereto, including, without limitation, all collateral securing such accounts receivable, all contracts and all guarantees or other obligations in respect of such accounts receivable, proceeds of such accounts receivable and other assets which are customarily transferred or in respect of which security interests are customarily granted in connection with an accounts receivable financing transaction; *provided* such transaction is on market terms at the time the Issuer or such Restricted Subsidiary enters into such transaction.

“*Rating Agencies*” means:

- (a) S&P;
- (b) Moody’s; or

(c) if S&P or Moody's or both shall not make a rating of the Notes publicly available, a nationally recognized securities rating agency or agencies, as the case may be, selected by the Issuer, which shall be substituted for S&P or Moody's or both, as the case may be.

"*Receivables Repurchase Obligation*" means any obligation of a seller of receivables in a Qualified Receivables Financing to repurchase receivables arising as a result of a breach of a representation, warranty or covenant or otherwise, including as a result of a receivable or portion thereof becoming subject to any asserted defense, dispute, off-set or counterclaim of any kind as a result of any action taken by, any failure to take action by or any other event relating to the seller.

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"*Receivables Subsidiary*" means a Subsidiary of the Issuer:

- (1) that is formed solely for the purpose of, and that engages in no activities other than activities in connection with, financing accounts receivable of the Issuer and/or its Restricted Subsidiaries;
- (2) that is designated by the Issuer as a Receivables Subsidiary and that has total assets at the time of such creation and designation with a book value of \$10,000 or less;
- (3) no portion of the Indebtedness or any other obligation (contingent or otherwise) of which (a) is at any time guaranteed by the Issuer or any Restricted Subsidiary (excluding guarantees of obligations (other than any guarantee of Indebtedness) pursuant to Standard Securitization Undertakings), (b) is at any time recourse to or obligates the Issuer or any Restricted Subsidiary in any way, other than pursuant to Standard Securitization Undertakings or (c) subjects any asset of the Issuer or any other Restricted Subsidiary, directly or indirectly, contingently or otherwise, to the satisfaction thereof, other than pursuant to Standard Securitization Undertakings (such Indebtedness, "*Non-Recourse Receivables Subsidiary Indebtedness*");
- (4) with which neither the Issuer nor any Restricted Subsidiary has any material contract, agreement, arrangement or understanding other than contracts, agreements, arrangements and understandings entered into in the ordinary course of business on terms no less favorable to the Issuer or such Restricted Subsidiary than those that might be obtained at the time from Persons that are not the Issuer's Affiliates in connection with a Qualified Receivables Transaction and fees payable in the ordinary course of business in connection with servicing accounts receivable in connection with such a Qualified Receivables Transaction; and
- (5) with respect to which neither the Issuer nor any Restricted Subsidiary has any obligation (a) to subscribe for additional shares of Capital Stock therein or make any additional capital contribution or similar payment or transfer thereto or (b) to maintain or preserve the solvency or any balance sheet term, financial condition, level of income or results of operations thereof.

"*Registration Rights Agreement*" means the Registration Rights Agreement for the Initial Notes, dated as of July 28, 2008, by and among the Issuer, the Guarantors and the Initial Purchasers, as such agreement may be amended, modified or supplemented from time to time.

"*Regulation S*" means Regulation S promulgated under the Securities Act.

"*Regulation S Global Note*" means a Global Note bearing the Private Placement Legend and deposited with or on behalf of the Depository and registered in the name of the Depository or its nominee, issued in an initial denomination equal to the outstanding principal amount of the Notes initially sold in reliance on Rule 903 of Regulation S.

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"*Responsible Officer*," when used with respect to the Trustee, means any officer within the Corporate Trust Office of the Trustee (or any successor group of the Trustee) or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of such officer's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

"*Restricted Definitive Note*" means a Definitive Note bearing the Private Placement Legend.

"*Restricted Global Note*" means a Global Note bearing the Private Placement Legend.

"*Restricted Investment*" means an Investment other than a Permitted Investment.

"*Restricted Period*" means the relevant 40-day distribution compliance period as defined in Regulation S.

"*Restricted Subsidiary*" or "*Restricted Subsidiaries*" means any Subsidiary, other than Unrestricted Subsidiaries.

"*Rule 144*" means Rule 144 promulgated under the Securities Act.

"*Rule 144A*" means Rule 144A promulgated under the Securities Act.

"*Rule 903*" means Rule 903 promulgated under the Securities Act.

"*Rule 904*" means Rule 904 promulgated under the Securities Act.

"*S&P*" means Standard & Poor's Rating Services, a division of The McGraw-Hill Companies, Inc., and its subsidiaries, or any successor to the rating agency business thereof.

"*Secured Indebtedness*" means any Indebtedness secured by a Lien on any assets of the Issuer or any Domestic Subsidiary that is a Restricted Subsidiary.

"*Securities Act*" means the Securities Act of 1933, as amended.

"*Shelf Registration Statement*" means the Shelf Registration Statement as defined in the Registration Rights Agreement.

"*Significant Subsidiary*" means any Subsidiary that would be a "significant subsidiary" as defined in Article 1, Rule 1-02 of Regulation S-X promulgated pursuant to the Securities Act, as such regulation is in effect on the Issue Date; *provided, however*, that neither a Receivables Subsidiary nor a Financing Subsidiary shall be considered to be a "Significant Subsidiary."

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“*Specified Affiliate Payments*” means (i) amounts paid by the Issuer or any of its Subsidiaries to IAC or any other Person with which the Issuer is (or, prior to the Spin-Off, was) included in a consolidated, combined or unitary tax return equal to the amount of federal, state and local income taxes payable in respect of the Issuer’s income and the income of its Subsidiaries and any payments made in accordance with any tax allocation or tax sharing agreement to the extent not inconsistent with the terms described in the Offering Memorandum between the Issuer and IAC entered into in connection with the Transactions and (ii) amounts paid by the Issuer or any of its Subsidiaries to IAC (or any of its Affiliates) pursuant to any agreement between the Issuer (or any of its Subsidiaries) and IAC (or any of its Affiliates) entered into in connection with the Spin-Off.

“*Spin-Off*” means the distribution of shares of the Issuer to the shareholders of IAC as contemplated by the Offering Memorandum.

“*Standard Securitization Undertakings*” means representations, warranties, covenants, indemnities and guarantees of performance entered into by the Issuer or any Restricted Subsidiary which are reasonably customary in an accounts receivable or equipment lease financing securitization transaction, including, without limitation, those relating to the servicing of the assets of a Receivables Subsidiary or a Financing Subsidiary, it being understood that any Receivables Repurchase Obligation which is customary for off-balance sheet receivables financing shall be deemed to be a Standard Securitization Undertaking.

“*Subordinated Indebtedness*” means Indebtedness of the Issuer or any Restricted Subsidiary that is expressly subordinated in right of payment to the Notes or the Guarantees, as the case may be.

“*Subsidiary*” or “*Subsidiaries*” means, with respect to any Person, any corporation, limited liability company, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person or a combination thereof.

“*TIA*” means the Trust Indenture Act of 1939 as in effect on the date hereof.

“*Total Secured Debt*” means, as of any date of determination, the aggregate principal amount of Secured Indebtedness of the Issuer and the Guarantors (other than Hedging Obligations and cash management obligations to the extent permitted by this Indenture) outstanding on such date, determined on a consolidated basis.

“*Total Senior Debt*” means, as at any date of determination, the aggregate principal amount of Indebtedness (other than Hedging Obligations and cash management obligations to the extent permitted by this Indenture) outstanding on such date, determined on a consolidated basis, that is not Subordinated Indebtedness.

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“*Transactions*” means the Spin-Off, the issuance of the Notes on the Issue Date, the initial borrowings under the Credit Agreement, the deposit of the Escrowed Property with the Escrow Agent, the distribution of the proceeds from the Notes issued on the Issue Date and the initial borrowings under the Credit Agreement to IAC and the other transactions undertaken in connection with the foregoing to the extent not inconsistent with the Offering Memorandum or the pro forma financial statements contained in the Offering Memorandum.

“*Treasury Rate*” means, at the time of computation, the yield to maturity of United States Treasury Securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15(519) which has become publicly available at least two Business Days prior to the redemption date or, if such Statistical Release is no longer published, any publicly available source of similar market data) most nearly equal to the period from the redemption date to August 1, 2012; *provided, however*, that if the period from the redemption date to August 1, 2012 is not equal to the constant maturity of a United States Treasury Security for which a weekly average yield is given, the Treasury Rate shall be obtained by linear interpolation (calculated to the nearest one-twelfth of a year) from the weekly average yields of United States Treasury Securities for which such yields are given, except that if the period from the redemption date to August 1, 2012 is less than one year, the weekly average yield on actually traded United States Treasury Securities adjusted to a constant maturity of one year shall be used.

“*Trustee*” means The Bank of New York Mellon until a successor replaces The Bank of New York Mellon in accordance with the applicable provisions hereof and thereafter means the successor serving hereunder.

“*Unrestricted Definitive Note*” means one or more Definitive Notes that do not bear and are not required to bear the Private Placement Legend.

“*Unrestricted Global Note*” means a permanent Global Note substantially in the form of Exhibit A attached hereto that bears the Global Note Legend and that has the “Schedule of Exchanges of Interests in the Global Note” attached thereto, and that is deposited with or on behalf of and registered in the name of the Depository, representing Notes that do not bear the Private Placement Legend.

“*Unrestricted Subsidiary*” or “*Unrestricted Subsidiaries*” means: (A) any Subsidiary designated as an Unrestricted Subsidiary in a resolution of the Issuer’s Board of Directors in accordance with the instructions set forth below; and (B) any Subsidiary of an Unrestricted Subsidiary.

The Issuer’s Board of Directors may designate any Subsidiary (including any newly acquired or newly formed Subsidiary) to be an Unrestricted Subsidiary so long as:

(a) no portion of the Indebtedness or any other obligation (contingent or otherwise) of which, immediately after such designation: (i) is guaranteed by the Issuer or any other Subsidiary of the Issuer (other than another Unrestricted Subsidiary);

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(ii) is recourse to or obligates the Issuer or any other Subsidiary of the Issuer (other than another Unrestricted Subsidiary) in any way; or (iii) subjects any property or asset of the Issuer or any other Subsidiary of the Issuer (other than another Unrestricted Subsidiary), or Equity Interests issued by such Subsidiary, directly or indirectly, contingently or otherwise, to satisfaction thereof;

(b) neither the Issuer nor any other Subsidiary (other than another Unrestricted Subsidiary) has any contract, agreement, arrangement or understanding with such Subsidiary, written or oral, other than on terms no less favorable to the Issuer or such other Subsidiary than those that might be obtained at the time from Persons who are not the Issuer’s Affiliates; and

(c) neither the Issuer nor any other Subsidiary (other than another Unrestricted Subsidiary) has any obligation: (i) to subscribe for additional shares of Capital Stock of such Subsidiary or other equity interests therein; or (ii) to maintain or preserve such Subsidiary’s financial condition or to cause such Subsidiary to achieve certain levels of operating results.

(d) after giving effect to any such designation, the Issuer’s Consolidated Fixed Charge Coverage Ratio would have been at least 2.0 to 1.0.

If at any time after the Issue Date the Issuer designates an additional Subsidiary as an Unrestricted Subsidiary, the Issuer will be deemed to have made a Restricted Investment in an amount equal to the fair market value (as determined in good faith by the Issuer's Board of Directors evidenced by a resolution of the Issuer's Board of Directors and set forth in an Officers' Certificate delivered to the Trustee no later than ten Business Days following a request from the Trustee) of such Subsidiary. An Unrestricted Subsidiary may be designated as a Restricted Subsidiary if, at the time of such designation after giving pro forma effect thereto, no Default or Event of Default shall have occurred or be continuing.

"U.S. Person" means a U.S. Person as defined in Rule 902(k) under the Securities Act.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness at any date, the number of years obtained by dividing (a) the total of the product obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment by (b) the then outstanding principal amount of such Indebtedness.

SECTION 1.02. *Other Definitions.*

Term	Defined in Section
"Affiliate Transaction"	4.11
"Change of Control Offer"	4.15
"Change of Control Payment"	4.15
"Change of Control Payment Date"	4.15
"Company"	Preamble
"Covenant Defeasance"	8.04
"Covenant Suspension Event"	4.19
"Deadline"	4.20
"DTC"	2.01(b)
"Escrow Agent"	4.20
"Escrow Agreement"	4.20
"Escrowed Property"	4.20
"Event of Default"	6.01
"Excess Proceeds"	4.10
"Excess Proceeds Offer"	3.08(a)
"Exchange"	Exhibit D
"incur"	4.09
"Interest Payment Date"	Exhibit A
"Legal Defeasance"	8.03
"Measurement Period"	1.01
"Non-Recourse Receivables Subsidiary Indebtedness"	1.01
"Offer Amount"	3.08(b)
"Offer Period"	3.08(b)
"Owner"	Exhibit D
"Paying Agent"	2.03
"Payment Default"	6.01(f)
"Purchase Date"	3.08(b)
"Refinancing Indebtedness"	4.09(b)
"Registrar"	2.03
"Release"	4.20(b)
"Release Certificate"	4.20
"Restricted Payments"	4.07
"Reversion Date"	4.19
"Rule 144"	2.01(c)
"Special Mandatory Redemption"	3.09
"Special Mandatory Redemption Amount"	4.20
"Special Mandatory Redemption Date"	3.09
"Special Mandatory Redemption Price"	3.09
"Sub Entity"	1.01
"Transaction Date"	1.01

"Transfer"	Exhibit C
"Transferee"	Exhibit C
"Transferor"	Exhibit C
"Treasury Securities"	4.20

SECTION 1.03. *Incorporation by Reference of Trust Indenture Act.*

Whenever this Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part hereof.

The following TIA terms used in this Indenture have the following meanings:

"indenture securities" means the Notes;

“indenture security holder” means a Holder of a Note;

“indenture to be qualified” means this Indenture;

“indenture trustee” or “institutional trustee” means the Trustee; and

“obligor” on the Notes means each of the Issuer and any successor obligor upon the Notes.

All other terms used in this Indenture that are defined by the TIA, defined by reference to another statute or defined by Commission rules under the TIA have the meanings so assigned to them.

#### SECTION 1.04. **Rules of Construction.**

Unless the context otherwise requires,

- (1) a term has the meaning assigned to it;
- (2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
- (3) “or” is not exclusive and “including” means “including without limitation”;
- (4) words in the singular include the plural, and in the plural include the singular;
- (5) provisions apply to successive events and transactions; and
- (6) references to sections of or rules under the Securities Act shall be deemed to include substitute, replacement of successor sections or rules adopted by the Commission from time to time.

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#### SECTION 1.05. **Acts of Holders; Record Dates.**

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders shall be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in Person or by an agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Issuer. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose hereof and conclusive in favor of the Trustee and the Issuer, if made in the manner provided in this Section 1.05.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to such Person the execution thereof. Where such execution is by a signer acting in a capacity other than such Person’s individual capacity, such certificate or affidavit shall also constitute sufficient proof of such Person’s authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustee deems sufficient.

(c) The Issuer may, in the circumstances permitted by the TIA, fix any date as the record date for the purpose of determining the Holders entitled to give or take any request, demand, authorization, direction, notice, consent, waiver or other action, or to vote on any action, authorized or permitted to be given or take by Holders. If not set by the Issuer prior to the first solicitation of a Holder made by any Person in respect of any such action, or, in the case of any such vote, prior to such vote, the record date for any such action or vote shall be the 30th day (or, if later, the date of the most recent list of Holders required to be provided pursuant to Section 2.05 hereof) prior to such first solicitation or vote, as the case may be. With regard to any record date, only the Holders on such date (or their duly designated proxies) shall be entitled to give or take, or vote on, the relevant action.

### ARTICLE 2

#### THE NOTES

#### SECTION 2.01. **Form and Dating.**

(a) The Notes and the Trustee’s certificate of authentication shall be substantially in the form of Exhibit A hereto, the terms of which are incorporated in and made a part hereof. The Notes may have notations, legends or endorsements approved as to form by the Issuer, and required by law, stock exchange rule, agreements to which the Issuer is subject or usage. Each Note shall be dated the date of its authentication. The Notes shall be issuable only in denominations of \$2,000 and integral multiples of \$1,000 in excess thereof.

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(b) The Notes shall initially be issued in the form of one or more Global Notes and The Depository Trust Company (*DTC*), its nominees, and their respective successors, shall act as the Depository with respect thereto. Each Global Note shall (i) be registered in the name of the Depository for such Global Note or the nominee of such Depository, (ii) shall be delivered by the Trustee to such Depository or pursuant to such Depository’s instructions, and (iii) shall bear a legend (the “*Global Note Legend*”) in substantially the following form:

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (“*DTC*”), TO THE ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

THIS NOTE IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE AND IS REGISTERED IN THE NAME OF THE DEPOSITORY OR A NOMINEE OF THE DEPOSITORY OR A SUCCESSOR DEPOSITORY. THIS NOTE IS NOT EXCHANGEABLE FOR SECURITIES REGISTERED IN THE NAME OF A PERSON OTHER THAN THE DEPOSITORY OR ITS NOMINEE EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE, AND NO TRANSFER OF THIS NOTE (OTHER THAN A TRANSFER OF THIS NOTE AS A WHOLE BY THE DEPOSITORY TO A NOMINEE

OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY) MAY BE REGISTERED EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE.

(c) Except as permitted by Section 2.06(g) hereof, any Note not registered under the Securities Act shall bear a legend (the “*Private Placement Legend*”) on the face thereof in substantially the following form:

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER:

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(1) REPRESENTS THAT IT, AND ANY ACCOUNT FOR WHICH IT IS ACTING, IS A “QUALIFIED INSTITUTIONAL BUYER” (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT, AND (2) AGREES FOR THE BENEFIT OF THE COMPANY THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS SECURITY OR ANY BENEFICIAL INTEREST HEREIN PRIOR TO THE RESALE RESTRICTION TERMINATION DATE (AS DEFINED IN THE NEXT PARAGRAPH), EXCEPT: (A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF, OR (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BECOME EFFECTIVE UNDER THE SECURITIES ACT, OR (C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, OR (D) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT OR ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT. THE RESALE RESTRICTION TERMINATION DATE WILL BE THE DATE (1) THAT IS AT LEAST ONE YEAR AFTER THE LAST ORIGINAL ISSUE DATE HEREOF AND (2) ON WHICH THE COMPANY INSTRUCTS THE TRUSTEE THAT THIS LEGEND SHALL BE DEEMED REMOVED FROM THIS SECURITY, IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN THE INDENTURE RELATING TO THIS SECURITY. PRIOR TO THE REGISTRATION OF ANY TRANSFER IN ACCORDANCE WITH (2)(D) ABOVE, THE COMPANY AND THE TRUSTEE RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH LEGAL OPINIONS, CERTIFICATIONS OR OTHER EVIDENCE AS MAY REASONABLY BE REQUIRED IN ORDER TO DETERMINE THAT THE PROPOSED TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF ANY EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

The Trustee must refuse to register any transfer of a Note bearing the Private Placement Legend that would violate the restrictions described in such legend.

The Private Placement Legend shall be deemed removed from the face of any Note without further action of the Issuer, the Trustee or the Holder of such Note at such time as the Issuer shall have delivered an Officers’ Certificate to the Trustee certifying that the Private Placement Legend can be removed because such Note may be resold to the public in accordance with Rule 144 under the Securities Act or any successor provision thereof (“*Rule 144*”) without regard to volume, manner of sale or any other restrictions contained in Rule 144 (other than the holding period requirement in paragraph (d)(1)(ii) of Rule 144 so long as such holding period requirement is satisfied at such time of determination) by Holders that are not Affiliates of the Issuer.

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(d) Any temporary Note that is a Global Note issued pursuant to Regulation S shall bear a legend (the “*Regulation S Temporary Global Note Legend*”) in substantially the following form:

THE RIGHTS ATTACHING TO THIS REGULATION S TEMPORARY GLOBAL NOTE, AND THE CONDITIONS AND PROCEDURES GOVERNING ITS EXCHANGE FOR DEFINITIVE NOTES, ARE AS SPECIFIED IN THE INDENTURE. THE HOLDER OF THIS NOTE BY ACCEPTANCE HEREOF ALSO AGREES, REPRESENTS AND WARRANTS THAT IF IT IS A PURCHASER IN A SALE THAT OCCURS OUTSIDE THE UNITED STATES WITHIN THE MEANING OF REGULATION S OF THE SECURITIES ACT, IT ACKNOWLEDGES THAT, UNTIL EXPIRATION OF THE “40-DAY DISTRIBUTION COMPLIANCE PERIOD” WITHIN THE MEANING OF RULE 903 OF REGULATION S, ANY OFFER OR SALE OF THIS NOTE SHALL NOT BE MADE BY IT TO A U.S. PERSON TO OR FOR THE ACCOUNT OR BENEFIT OF A U.S. PERSON WITHIN THE MEANING OF RULE 902(k) UNDER THE SECURITIES ACT

#### SECTION 2.02. *Form of Execution and Authentication.*

An Officer shall sign the Notes for the Issuer by manual or facsimile signature.

If an Officer whose signature is on a Note no longer holds that office at the time the Note is authenticated, the Note shall nevertheless be valid.

A Note shall not be valid until authenticated by the manual signature of the Trustee. The signature of the Trustee shall be conclusive evidence that the Note has been authenticated under this Indenture.

The Trustee shall authenticate (i) Initial Notes for original issue on the Issue Date in an aggregate principal amount of \$240.0 million, (ii) pursuant to the Exchange Offer, Exchange Notes from time to time for issue only in exchange for a like principal amount of Initial Notes and (iii) subject to compliance with Section 4.09 hereof, one or more series of Notes for original issue after the Issue Date (such Notes to be substantially in the form of Exhibit A) in an unlimited amount (and if issued with a Private Placement Legend, the same principal amount of Exchange Notes in exchange therefor upon consummation of a registered exchange offer), in each case upon written order of the Issuer in the form of an Officers’ Certificate, which Officers’ Certificate shall, in the case of any issuance pursuant to clause (iii) above, certify that such issuance is in compliance with Section 4.09 hereof. In addition, each such Officers’ Certificate shall specify the amount of Notes to be authenticated, the date on which the Notes are to be authenticated, whether the securities are to be Initial Notes, Exchange Notes or Notes issued under clause (iii) of the preceding sentence and the aggregate principal amount of Notes outstanding on the date of authentication, and shall further specify the amount of such Notes to be issued as Global Notes or Definitive Notes. Such Notes shall

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initially be in the form of one or more Global Notes, which (i) shall represent, and shall be denominated in an amount equal to the aggregate principal amount of, the Notes to be issued, (ii) shall be registered in the name of the Depositary or its nominee and (iii) shall be delivered by the Trustee to the Depositary or pursuant to the Depositary’s instruction. All Notes issued under this Indenture shall vote and consent together on all matters as one class and no series of Notes will have the right to vote or consent as a separate class on any matter.

The Trustee may appoint an authenticating agent acceptable to the Issuer to authenticate Notes. Unless limited by the terms of such appointment, an authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as an Agent to deal with the Issuer or any Affiliate of the Issuer.

**SECTION 2.03. Registrar and Paying Agent.**

The Issuer shall maintain (i) an office or agency where Notes may be presented for registration of transfer or for exchange (including any co-registrar, the “Registrar”) and (ii) an office or agency where Notes may be presented for payment (“Paying Agent”). The Registrar shall keep a register of the Notes and of their transfer and exchange. The Issuer may appoint one or more co-registrars and one or more additional paying agents. The term “Paying Agent” includes any additional paying agent. The Issuer may change any Paying Agent, Registrar or co-registrar without prior notice to any Holder of a Note. The Issuer shall notify the Trustee in writing and the Trustee shall notify the Holders of the Notes of the name and address of any Agent not a party to this Indenture. The Issuer may act as Paying Agent, Registrar or co-registrar. The Issuer shall enter into an appropriate agency agreement with any Agent not a party to this Indenture, which shall incorporate the provisions of the TIA. The agreement shall implement the provisions hereof that relate to such Agent. The Issuer shall notify the Trustee in writing of the name and address of any such Agent. If the Issuer fails to maintain a Registrar or Paying Agent, or fails to give the foregoing notice, the Trustee shall act, as such, and shall be entitled to appropriate compensation in accordance with Section 7.07 hereof.

The Issuer initially appoints the Trustee as Registrar, Paying Agent and agent for service of notices and demands in connection with the Notes.

**SECTION 2.04. Paying Agent To Hold Money in Trust.**

The Issuer shall require each Paying Agent other than the Trustee to agree in writing that the Paying Agent shall hold in trust for the benefit of the Holders of the Notes or the Trustee all money held by the Paying Agent for the payment of principal of, premium, if any, and interest on the Notes, and shall notify the Trustee in writing of any Default by the Issuer in making any such payment. While any such Default continues, the Trustee may require a Paying Agent to pay all money held by it to the Trustee. The Issuer at any time may require a Paying Agent to pay all money held by such Paying Agent to the Trustee. Upon payment over to the Trustee, the Paying Agent (if other than the Issuer) shall have no further liability

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for the money delivered to the Trustee. If the Issuer acts as Paying Agent, it shall segregate and hold in a separate trust fund for the benefit of the Holders of the Notes all money held by it as Paying Agent.

**SECTION 2.05. Lists of Holders of the Notes.**

The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Holders of the Notes and shall otherwise comply with TIA § 312(a). If the Trustee is not the Registrar, the Issuer shall furnish to the Trustee at least seven Business Days before each interest payment date, and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Holders of the Notes, including the aggregate principal amount of the Notes held by each thereof, and the Issuer shall otherwise comply with TIA § 312(a).

**SECTION 2.06. Transfer and Exchange.**

(a) *Transfer and Exchange of Global Notes.* A Global Note may not be transferred as a whole except by the Depository to a nominee of the Depository, by a nominee of the Depository to the Depository or to another nominee of the Depository, or by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository. Beneficial interests in Global Notes will be exchanged by the Issuer for Definitive Notes, subject to any applicable laws, if (i) the Issuer delivers to the Trustee notice from the Depository that it is unwilling or unable to continue to act as Depository and a successor Depository is not appointed by the Issuer within 90 days after the date of such written notice from the Depository, (ii) the Issuer delivers to the Trustee notice from the Depository that it is no longer a clearing agency registered under the Exchange Act and a successor Depository is not appointed by the Issuer within 90 days after the date of such written notice from the Depository, (iii) the Issuer in its sole discretion determines that the Global Notes (in whole but not in part) should be exchanged for Definitive Notes and delivers a written notice to such effect to the Trustee, (iv) upon request of the Trustee or Holders of a majority of the aggregate principal amount of outstanding Notes if there shall have occurred and be continuing a Default or Event of Default with respect to the Notes; *provided* that in no event shall the Reg S Temporary Global Note be exchanged by the Issuer for Definitive Notes prior to (A) the expiration of the Restricted Period and (B) the receipt by the Registrar of any certificate identified by the Issuer and its counsel to be required pursuant to Rule 903 or Rule 904 under the Securities Act. In any such case, the Issuer will notify the Trustee in writing that, upon surrender by the Participants and Indirect Participants of their interests in such Global Note, Certificated Notes will be issued to each Person that such Participants, Indirect Participants and DTC jointly identify as being the beneficial owner of the related Notes. Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.10 hereof. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.06 or Section 2.07 or 2.10 hereof, shall be authenticated and delivered in the form of, and shall be, a Global Note. A Global Note may not be exchanged for another Note other than as provided in this Section 2.06. However, beneficial

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interests in a Global Note may be transferred and exchanged as provided in paragraph (b), (c) or (f) below.

(b) *Transfer and Exchange of Beneficial Interests in the Global Notes.* The transfer and exchange of beneficial interests in the Global Notes shall be effected through the Depository, in accordance with the provisions hereof and the Applicable Procedures. Beneficial interests in the Restricted Global Notes shall be subject to restrictions on transfer comparable to those set forth in this Indenture to the extent required by the Securities Act. Transfers of beneficial interests in the Global Notes also shall require compliance with the applicable subparagraphs below.

(i) *Transfer of Beneficial Interests in the Same Global Note.* Beneficial interests in any Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Restricted Global Note in accordance with the transfer restrictions set forth in the Private Placement Legend; *provided, however*, that prior to the expiration of the Restricted Period, no transfer of beneficial interests in a Regulation S Global Note may be made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser) unless permitted by applicable law and made in compliance with subparagraphs (ii) and (iii) below. Beneficial interests in any Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this subparagraph (i) unless specifically stated above.

(ii) *All Other Transfers and Exchanges of Beneficial Interests in Global Notes.* In connection with all transfers and exchanges of beneficial interests that are not subject to subparagraph (i) above, the transferor of such beneficial interest must deliver to the Registrar either (A) (1) a written order from a Participant or an Indirect Participant given to the Depository in accordance with the Applicable Procedures directing the Depository to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase or, (B) (1) if Definitive Notes are at such time permitted to be issued pursuant to this Indenture, a written order from a Participant or an Indirect Participant given to the Depository in accordance with the Applicable Procedures directing the Depository to cause to be issued a Definitive Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given by the Depository to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer or exchange referred to in (1) above. Upon consummation of an Exchange Offer by the Issuer in accordance with paragraph (f) below, the requirements of this subparagraph (ii) shall be deemed to have been satisfied upon receipt by the Registrar of the instructions contained in the Letter of Transmittal delivered by the holder



Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to paragraph (h) below.

(iii) *Transfer of Beneficial Interests to Another Restricted Global Note.* A beneficial interest in any Restricted Global Note may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Restricted Global Note if the transfer complies with the requirements of subparagraph (ii) above and the Registrar receives the following:

(A) if the transferee will take delivery in the form of a beneficial interest in a 144A Global Note, then the transferor must deliver a certificate in the form of Exhibit C hereto, including the certifications in item (1) thereof; and

(B) if the transferee will take delivery in the form of a beneficial interest in a Regulation S Global Note, then the transferor must deliver a certificate in the form of Exhibit C hereto, including the certifications in item (2) thereof.

(iv) *Transfer and Exchange of Beneficial Interests in a Restricted Global Note for Beneficial Interests in an Unrestricted Global Note.* A beneficial interest in any Restricted Global Note may be exchanged by any holder thereof for a beneficial interest in an Unrestricted Global Note or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note if the exchange or transfer complies with the requirements of subparagraph (ii) above, and

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the holder of the beneficial interest to be transferred, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a Broker-Dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an "affiliate" (as defined in Rule 144) of the Issuer;

(B) such transfer is effected pursuant to a Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Broker-Dealer pursuant to an Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(y) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form of Exhibit D hereto, including the certifications in item (1) (a) thereof, or

(z) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form of Exhibit C hereto, including the applicable certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained in this Indenture and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

If any such transfer is effected pursuant to subparagraph (B) or (D) above at a time when an Unrestricted Global Note has not yet been issued, the Issuer shall issue and, upon receipt of an authentication order in accordance with Section 2.02 hereof, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred pursuant to subparagraph (B) or (D) above.

Beneficial interests in an Unrestricted Global Note cannot be exchanged for, or transferred to Persons who take delivery thereof in the form of, a beneficial interest in a Restricted Global Note.

(c) *Transfer and Exchange of Beneficial Interests for Definitive Notes.*

(i) *Transfer and Exchange of Beneficial Interests in Restricted Global Notes for Restricted Definitive Notes.* If any holder of a beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Restricted Definitive Note, then, upon receipt by the Registrar of the following documentation:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note, a certificate from such holder in the form of Exhibit D hereto, including the certifications in item (2)(a) thereof;

(B) if such beneficial interest is being transferred to a QIB in accordance with Rule 144A under the Securities Act, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (1) thereof;

(C) if such beneficial interest is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904 under the Securities Act, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (2) thereof;

(D) if such beneficial interest is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144 under the Securities Act, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (3)(a) thereof;

(E) if such beneficial interest is being transferred to the Issuer or any of its Subsidiaries, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (3)(b) thereof; or

(F) if such beneficial interest is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to paragraph (h) below, and the Issuer shall execute and the Trustee shall authenticate and deliver to the Person designated in the certificate a Restricted Definitive Note in the appropriate principal amount. Any Restricted Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this paragraph (c) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depository and the Participant or Indirect Participant. The Trustee shall deliver such Restricted Definitive Notes to the Persons in whose names such Notes are so registered. Any Restricted Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this subparagraph (i) shall bear the Private Placement Legend and shall be subject to all restrictions on transfer contained therein.

(ii) *Transfer and Exchange of Beneficial Interests in Restricted Global Notes for Unrestricted Definitive Notes.* A holder of a beneficial interest in a Restricted Global Note may exchange such beneficial interest for an Unrestricted Definitive Note or may transfer such beneficial interest to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note only if:

(A) such exchange or transfer is effected pursuant to an Exchange Offer in accordance with the Registration Rights Agreement and the holder of such beneficial interest, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not

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(1) a Broker-Dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an “affiliate” (as defined in Rule 144) of the Issuer;

(B) such transfer is effected pursuant to a Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(y) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Definitive Note that does not bear the Private Placement Legend, a certificate from such holder in the form of Exhibit D hereto, including the certifications in item (1)(b) thereof; or

(z) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a Definitive Note that does not bear the Private Placement Legend, a certificate from such holder in the form of Exhibit C hereto, including the applicable certifications in item (4) thereof,

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained in this Indenture and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

If any such transfer is effected pursuant to subparagraph (B) or (D) above at a time when an Unrestricted Global Note has not yet been issued, the Issuer shall issue and, upon receipt of an authentication order in accordance with Section 2.02 hereof, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred pursuant to subparagraph (B) or (D) above.

(iii) *Transfer and Exchange of Beneficial Interests in Unrestricted Global Notes for Unrestricted Definitive Notes.* If any holder of a beneficial interest in an Unrestricted Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon satisfaction of the conditions set forth in subparagraph (b)(ii) above, the Trustee shall cause the aggregate principal amount of

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the applicable Global Note to be reduced accordingly pursuant to paragraph (h) below, and the Issuer shall execute and the Trustee shall authenticate and deliver to the Person designated in the certificate a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this subparagraph (c)(iii) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depository and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest pursuant to this subparagraph (c)(iii) shall not bear the Private Placement Legend.

(d) *Transfer and Exchange of Definitive Notes for Beneficial Interests.*

(i) *Transfer and Exchange of Restricted Definitive Notes for Beneficial Interests in Restricted Global Notes.* If any Holder of a Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note or to transfer such Restricted Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in a Restricted Global Note, then, upon receipt by the Registrar of the following documentation:

(A) if the Holder of such Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note, a certificate from such Holder in the form of Exhibit D hereto, including the certifications in item (2)(b) thereof;

(B) if such Restricted Definitive Note is being transferred to a QIB in accordance with Rule 144A under the Securities Act, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (1) thereof; or

(C) if such Restricted Definitive Note is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904 under the Securities Act, a certificate to the effect set forth in Exhibit C hereto, including the certifications in item (2) thereof,

the Trustee shall cancel the Restricted Definitive Note, increase or cause to be increased the aggregate principal amount of, in the case of clause (A) above, the appropriate Restricted Global Note, in the case of clause (B) above, the 144A Global Note, and in the case of clause (C) above, the Regulation S Global Note.

(ii) *Transfer and Exchange of Restricted Definitive Notes for Beneficial Interests in Unrestricted Global Notes.* A Holder of a Restricted Definitive

such Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note only if:

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the Holder, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a Broker-Dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an “affiliate” (as defined in Rule 144) of the Issuer;

(B) such transfer is effected pursuant to a Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Broker-Dealer pursuant to an Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(y) if the Holder of such Definitive Notes proposes to exchange such Notes for a beneficial interest in an Unrestricted Global Note, a certificate from such Holder in the form of Exhibit D hereto, including the certifications in item (1)(c) thereof; or

(z) if the Holder of such Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the applicable certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained in this Indenture and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

Upon satisfaction of the conditions of any of the subparagraphs in this subparagraph (d)(ii), the Trustee shall cancel the Definitive Notes and increase or cause to be increased the aggregate principal amount of the Unrestricted Global Note.

(iii) *Transfer and Exchange of Unrestricted Definitive Notes for Beneficial Interests in Unrestricted Global Notes.* A Holder of an Unrestricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Unrestricted Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note at any time. Upon receipt

of a request for such an exchange or transfer, the Trustee shall cancel the applicable Unrestricted Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Unrestricted Global Notes.

If any such exchange or transfer from an Unrestricted Definitive Note or a Restricted Definitive Note, as the case may be, to a beneficial interest is effected pursuant to subparagraphs (ii)(B), (ii)(D) or (iii) above at a time when an Unrestricted Global Note has not yet been issued, the Issuer shall issue and, upon receipt of an authentication order in accordance with Section 2.02 hereof, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of Unrestricted Definitive Notes or Restricted Definitive Notes, as the case may be, so transferred.

(c) *Transfer and Exchange of Definitive Notes for Definitive Notes.* Upon request by a Holder of Definitive Notes and such Holder’s compliance with the provisions of this paragraph (c), the Registrar shall register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder shall present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or its attorney, duly authorized in writing. In addition, the requesting Holder shall provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this paragraph (c).

(i) *Transfer of Restricted Definitive Notes to Restricted Definitive Notes.* Any Restricted Definitive Note may be transferred to and registered in the name of Persons who take delivery thereof in the form of a Restricted Definitive Note if the Registrar receives the following:

(A) if the transfer will be made pursuant to Rule 144A under the Securities Act, then the transferor must deliver a certificate in the form of Exhibit C hereto, including the certifications in item (1) thereof;

(B) if the transfer will be made pursuant to Rule 903 or Rule 904, then the transferor must deliver a certificate in the form of Exhibit C hereto, including the certifications in item (2) thereof; and

(C) if the transfer will be made pursuant to any other exemption from the registration requirements of the Securities Act, then the transferor must deliver a certificate in the form of Exhibit C hereto, including, if the Registrar so requests, a certification or Opinion of Counsel in form reasonably acceptable to the Issuer to the effect that such transfer is in compliance with the Securities Act.

(ii) *Transfer and Exchange of Restricted Definitive Notes for Unrestricted Definitive Notes.* Any Restricted Definitive Note may be exchanged by the Holder

thereof for an Unrestricted Definitive Note or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Note if

(A) such exchange or transfer is effected pursuant to an Exchange Offer in accordance with the Registration Rights Agreement and the Holder, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a Broker-Dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an “affiliate” (as defined in Rule 144) of the Issuer;

(B) any such transfer is effected pursuant to a Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) any such transfer is effected by a Broker-Dealer pursuant to an Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(y) if the Holder of such Restricted Definitive Notes proposes to exchange such Notes for an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit D hereto, including the applicable certifications in item (1)(d) thereof; or

(z) if the Holder of such Restricted Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit C hereto, including the applicable certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests, an Opinion of Counsel in a form reasonably acceptable to the Issuer to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained in this Indenture and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(iii) *Transfer of Unrestricted Definitive Notes to Unrestricted Definitive Notes.* A Holder of Unrestricted Definitive Notes may transfer such Notes to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Unrestricted Definitive Notes pursuant to the instructions from the Holder thereof.

(f) *Exchange Offer.* Upon the occurrence of an Exchange Offer in accordance with the Registration Rights Agreement, the Issuer shall issue and, upon receipt of an authentication order in accordance with Section 2.02 hereof, the Trustee shall authenticate (i) one or

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more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of the beneficial interests in the Restricted Global Notes tendered for acceptance by Persons that make the certifications in the applicable Letters of Transmittal required by Section 2(a) of the Registration Rights Agreement, and accepted for exchange in an Exchange Offer and (ii) Definitive Notes in an aggregate principal amount equal to the principal amount of the Restricted Definitive Notes accepted for exchange in an Exchange Offer. Concurrently with the issuance of such Notes, the Trustee shall cause the aggregate principal amount of the applicable Restricted Global Notes to be reduced accordingly, and the Issuer shall execute and the Trustee shall authenticate and deliver to the Persons designated by the Holders of Restricted Definitive Notes so accepted Unrestricted Definitive Notes in the appropriate principal amounts.

(g) *Legends.* The following legends shall appear on the faces of all Global Notes and Definitive Notes issued under this Indenture unless specifically stated otherwise in the applicable provisions hereof.

(i) *Private Placement Legend.*

(A) Except as permitted by subparagraph (B) below, each Global Note (other than an Unrestricted Global Note) and each Definitive Note (and all Notes issued in exchange therefor or substitution thereof) shall bear the Private Placement Legend.

(B) Notwithstanding the foregoing, any Global Note or Definitive Note issued pursuant to subparagraphs (b)(iv), (c)(ii), (c)(iii), (d)(ii), (d)(iii), (e)(ii), (e)(iii) or (f) of this Section 2.06 (and all Notes issued in exchange therefor or substitution thereof) shall not bear the Private Placement Legend.

(ii) *Global Note Legend.* Each Global Note shall bear the Global Note Legend.

(iii) *Regulation S Temporary Global Note Legend.* Each temporary Note that is a Global Note issued pursuant to Regulation S shall bear the Regulation S Temporary Global Note Legend.

(h) *Cancellation and/or Adjustment of Global Notes.* At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.11 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note shall be reduced accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depository at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged

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for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depository at the direction of the Trustee to reflect such increase.

(i) *General Provisions Relating to Transfers and Exchanges.*

(i) To permit registrations of transfers and exchanges, the Issuer shall execute and the Trustee shall authenticate Global Notes and Definitive Notes upon the Issuer's order or at the Registrar's request.

(ii) No service charge shall be made to a holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Issuer may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.02, 2.10, 3.06, 3.08 and 9.05 hereof).

(iii) The Registrar shall not be required to register the transfer of or exchange any Note selected for redemption in whole or in part, except for the unredeemed portion of any Note being redeemed in part.

(iv) All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes shall be the valid obligations of the Issuer, evidencing the same debt, and entitled to the same benefits hereof, as the Global Notes or Definitive Notes surrendered upon such registration of transfer or exchange.

(v) The Issuer shall not be required (A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business on a Business Day 15 days before the day of any selection of Notes for redemption under Section 3.02 hereof and ending at the close of business on the day of selection or (B) to register the transfer of or to exchange any Note so selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(vi) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Issuer may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Issuer shall be affected by notice to the contrary.

(vii) The Trustee shall authenticate Global Notes and Definitive Notes in accordance with the provisions of Section 2.02 hereof.

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(viii) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.06 to effect a registration of transfer or exchange may be submitted by facsimile.

**SECTION 2.07. Replacement Notes.**

If any mutilated Note is surrendered to the Trustee, or the Issuer and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of any Note, the Issuer shall issue and the Trustee, upon the written order of the Issuer signed by two Officers of the Issuer, shall authenticate a replacement Note if the Trustee's requirements for replacements of Notes are met. If required by the Trustee or the Issuer, the Holder must supply an indemnity bond sufficient in the judgment of the Trustee and the Issuer to protect the Issuer, the Trustee, any Agent or any authenticating agent from any loss which any of them may suffer if a Note is replaced. The Issuer and the Trustee may charge for their expenses in replacing a Note.

Every replacement Note is a joint and several obligation of the Issuer.

**SECTION 2.08. Outstanding Notes.**

The Notes outstanding at any time are all the Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation and those described in this Section 2.08 as not outstanding.

If a Note is replaced pursuant to Section 2.07 hereof, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Note is held by a protected purchaser.

If the principal amount of any Note is considered paid under Section 4.01 hereof, it shall cease to be outstanding and interest on it shall cease to accrue.

Subject to Section 2.09 hereof, a Note does not cease to be outstanding because the Issuer, a Subsidiary of the Issuer or an Affiliate of the Issuer holds the Note.

**SECTION 2.09. Treasury Notes.**

In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Issuer, any Subsidiary of the Issuer or any Affiliate of the Issuer shall be considered as though not outstanding, except that for purposes of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes which a Responsible Officer knows to be so owned shall be so considered. Notwithstanding the foregoing, Notes that are to be acquired by the Issuer, any Subsidiary of the Issuer or an Affiliate of the Issuer pursuant to an Exchange Offer, tender offer or other agreement shall not be deemed to be owned by the Issuer, a Subsidiary of the Issuer or an Affiliate of the Issuer until legal title to such Notes passes to the Issuer, such Subsidiary or such Affiliate, as the case may be.

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**SECTION 2.10. Temporary Notes.**

Until Definitive Notes are ready for delivery, the Issuer may prepare and the Trustee shall authenticate temporary Notes. Temporary Notes shall be substantially in the form of definitive Notes but may have variations that the Issuer and the Trustee consider appropriate for temporary Notes. Without unreasonable delay, the Issuer shall prepare and the Trustee, upon receipt of the written order of the Issuer signed by two Officers of the Issuer, shall authenticate definitive Notes in exchange for temporary Notes. Until such exchange, temporary Notes shall be entitled to the same rights, benefits and privileges as Definitive Notes.

**SECTION 2.11. Cancellation.**

The Issuer at any time may deliver Notes to the Trustee for cancellation. The Registrar and Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee shall cancel all Notes surrendered for registration of transfer, exchange, payment, replacement or cancellation and shall dispose of all canceled Notes in its customary manner (subject to the record retention requirements of the Exchange Act), unless the Issuer directs canceled Notes to be returned to it. The Issuer may not issue new Notes to replace Notes that it has redeemed or paid or that have been delivered to the Trustee for cancellation. All canceled Notes held by the Trustee shall be disposed of and certification of their disposal delivered to the Issuer upon its request therefor, unless by a written order, signed by two Officers of the Issuer, the Issuer shall direct that canceled Notes be returned to it.

**SECTION 2.12. Defaulted Interest.**

If the Issuer defaults in a payment of interest on the Notes, it shall pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest, to the Persons who are Holders of the Notes on a subsequent special record date, which date shall be the earliest practicable date but in all events at least five Business Days prior to the payment date, in each case at the rate provided in the Notes. The Issuer shall, with the consent of the Trustee, fix or cause to be fixed each such special record date and payment date. At least 15 days before the special record date, the Issuer (or the Trustee, in the name of and at the expense of the Issuer) shall mail to Holders of the Notes a notice that states the special record date, the related payment date and the amount of such interest to be paid.

**SECTION 2.13. Record Date.**

The record date for purposes of determining the identity of Holders of the Notes entitled to vote or consent to any action by vote or consent authorized or permitted under this Indenture shall be determined as provided for in TIA § 316(c).

**SECTION 2.14. CUSIP Number.**

The Issuer in issuing the Notes may use a "CUSIP" number and, if it does so, the Trustee shall use the CUSIP number in notices of redemption or exchange as a convenience to

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Holders; *provided* that any such notice may state that no representation is made as to the correctness or accuracy of the CUSIP number printed in the notice or on the Notes and that reliance may be placed only on the other identification numbers printed on the Notes. The Issuer shall promptly notify the Trustee in writing of any change in the CUSIP number.

## ARTICLE 3

### REDEMPTION

#### SECTION 3.01. *Notices to Trustee.*

If the Issuer elects to redeem Notes pursuant to the optional redemption provisions of Section 3.07 hereof, it shall furnish to the Trustee, at least 35 days (unless a shorter period is acceptable to the Trustee) but not more than 60 days before a redemption date, an Officers' Certificate of the Issuer setting forth (i) the redemption date, (ii) the principal amount of Notes to be redeemed and (iii) the redemption price. If the Issuer is required to make the redemption pursuant to Section 3.08 hereof, it shall furnish the Trustee, at least one but not more than ten Business Days before the applicable purchase date, an Officers' Certificate of the Issuer setting forth (i) the purchase date, (ii) the principal amount of Notes offered to be purchased and (iii) the purchase price.

#### SECTION 3.02. *Selection of Notes To Be Redeemed.*

(a) If less than all of the Notes are to be redeemed at any time in accordance with Section 3.07 hereof, the selection of Notes for redemption shall be made by the Trustee in compliance with the requirements of the principal national securities exchange, if any, on which the Notes are listed, or if the Notes are not so listed on a *pro rata* basis, or, in the case of a redemption other than as provided in Section 3.07(b) hereof, by lot or in accordance with the Trustee's customary practices, subject to the applicable rules of the Depository; *provided* that no Notes with a principal amount of \$2,000 or less shall be redeemed in part. In the event of partial redemption by lot, the particular Notes to be redeemed shall be selected, unless otherwise provided herein, not less than 30 nor more than 60 days prior to the redemption date by the Trustee from the outstanding Notes not previously called for redemption.

(b) The Trustee shall promptly notify the Issuer in writing of the Notes selected for redemption and, in the case of any Note selected for partial redemption, the principal amount thereof to be redeemed. Notes and portions of them selected shall be in amounts of \$2,000 or whole multiples of \$1,000 in excess thereof; except that if all of the Notes of a Holder are to be redeemed, the entire outstanding amount of Notes held by such Holder, even if not a multiple of \$1,000, shall be redeemed. Except as provided in the preceding sentence, provisions hereof that apply to Notes called for redemption also apply to portions of Notes called for redemption.

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#### SECTION 3.03. *Notice of Redemption.*

Subject to the provisions of Sections 3.08 and 3.10 hereof, at least 30 days but not more than 60 days before a redemption date, the Issuer shall mail or cause to be mailed, by first class mail, a notice of redemption to each Holder (with a copy to the Trustee) whose Notes are to be redeemed to such Holder's registered address.

The notice shall identify the Notes to be redeemed and shall state

- (i) the redemption date;
- (ii) the redemption price;
- (iii) if any Note is being redeemed in part only, the portion of the principal amount of such Note to be redeemed and that, after the redemption date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion shall be issued in the name of the Holder thereof upon cancellation of the original Note;
- (iv) the name and address of the Paying Agent;
- (v) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;
- (vi) that, unless the Issuer defaults in making such redemption payment, interest on Notes called for redemption ceases to accrue on and after the redemption date;
- (vii) the paragraph of the Notes and/or section hereof pursuant to which the Notes called for redemption are being redeemed; and
- (viii) that no representation is made as to the correctness or accuracy of the CUSIP number, if any, listed in such notice or printed on the Notes.

At the Issuer's written request, the Trustee shall give the notice of redemption in the Issuer's name and at the Issuer's expense *provided* that the Issuer shall have delivered to the Trustee, at least 10 days (unless a shorter period is acceptable to the Trustee) prior to the date the Issuer wishes to have the notice given, an Officers' Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding paragraph.

#### SECTION 3.04. *Effect of Notice of Redemption.*

Once notice of redemption is mailed in accordance with Section 3.03 hereof, Notes called for redemption become due and payable on the redemption date at the redemption price.

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#### SECTION 3.05. *Deposit of Redemption Price.*

On or prior to any redemption date, the Issuer shall deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption price of and accrued interest on all Notes to be redeemed on that date. The Trustee or the Paying Agent shall promptly return to the Issuer any money deposited with the Trustee or the Paying Agent by the Issuer in excess of the amounts necessary to pay the redemption price of, and accrued interest on, all Notes to be redeemed.

On and after the redemption date, if the Issuer does not default in the payment of the redemption price, interest shall cease to accrue on the Notes or the portions of Notes called for redemption. If a Note is redeemed on or after an interest record date but on or prior to the related interest payment date, then any accrued and unpaid interest

shall be paid to the Person in whose name such Note was registered at the close of business on such record date. If any Note called for redemption shall not be so paid upon surrender for redemption because of the failure of the Issuer to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the redemption date until such principal is paid, and to the extent lawful on any interest not paid on such unpaid principal, in each case at the rate provided in the Notes.

**SECTION 3.06. Notes Redeemed in Part.**

Upon surrender and cancellation of a Note that is redeemed in part, the Issuer shall issue and the Trustee shall authenticate for the Holder of the Notes at the expense of the Issuer a new Note equal in principal amount to the unredeemed portion of the Note surrendered.

**SECTION 3.07. Optional Redemption.**

(a) Except as provided in paragraphs (b) and (c) below, the Notes will not be redeemable at the Issuer's option prior to August 1, 2012. Thereafter, the Notes will be subject to redemption at the option of the Issuer, in whole or in part, upon not less than 30 days nor more than 60 days' notice, at the redemption prices (expressed as percentages of principal amount) set forth below, together with accrued and unpaid interest thereon to the applicable redemption date (subject to the rights of holders of record of the Notes on the relevant record date to receive payments of interest on the related interest payment date), if redeemed during the 12-month period beginning on June 15 of the years indicated below:

<u>Year</u>	<u>Percentage</u>
2012	105.625%
2013	102.813%
2014 and thereafter	100.000%

(b) Notwithstanding the foregoing, at any time and from time to time prior to August 1, 2011, the Issuer may redeem up to 35% of the aggregate principal amount of the Notes outstanding at a redemption price equal to 111.25% of the principal amount thereof on the redemption date, together with accrued and unpaid interest to such redemption date (subject to the rights of holders of record of the Notes on the relevant record date to receive payments of

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interest on the related interest payment date), with the net cash proceeds of one or more public or private sales of Qualified Capital Stock, other than proceeds from a sale to the Issuer or any Subsidiary of the Issuer or any employee benefit plan in which the Issuer or any of its Subsidiaries participates; *provided* that: (i) at least 65% in aggregate principal amount of the Notes originally issued remains outstanding immediately after the occurrence of such redemption; and (ii) such redemption occurs no later than the 120th day following such sale of Qualified Capital Stock.

(c) In addition, at any time and from time to time prior to August 1, 2012, the Issuer may redeem all or any portion of the Notes outstanding at a redemption price equal to (i) 100% of the aggregate principal amount of the Notes to be redeemed, together with accrued and unpaid interest to such redemption date (subject to the rights of holders of record of the Notes on the relevant record date to receive payments of interest on the related interest payment date), plus (ii) the Make Whole Amount.

**SECTION 3.08. Excess Proceeds Offer.**

(a) When the cumulative amount of Excess Proceeds that have not been applied in accordance with Section 4.10 exceeds \$50.0 million, the Issuer shall make an offer to all Holders of the Notes (an "Excess Proceeds Offer") to purchase the maximum principal amount of Notes that may be purchased out of such Excess Proceeds at an offer price in cash in an amount equal to 100% of the principal amount thereof, together with accrued and unpaid interest to the date fixed for the closing of such offer in accordance with the procedures set forth herein. To the extent the Issuer or a Restricted Subsidiary is required under the terms of Indebtedness of the Issuer or such Restricted Subsidiary (other than Subordinated Indebtedness), the Issuer shall also make a pro rata offer to the Holders of such Indebtedness (including the Notes) with such proceeds. If the aggregate principal amount of Notes and other *pari passu* Indebtedness surrendered by Holders thereof exceeds the amount of such Excess Proceeds, the Trustee shall select the Notes and other *pari passu* Indebtedness to be purchased on a pro rata basis. To the extent that the aggregate principal amount of Notes tendered pursuant to an Excess Proceeds Offer is less than the amount of such Excess Proceeds, the Issuer may use any remaining Excess Proceeds for general corporate purposes in compliance with the provisions of this Indenture. Upon completion of an Excess Proceeds Offer, the amount of Excess Proceeds shall be reset at zero.

(b) The Excess Proceeds Offer shall remain open for a period of 20 Business Days following its commencement and no longer, except to the extent that a longer period is required by applicable law (the "Offer Period"). No later than five Business Days after the termination of the Offer Period (the "Purchase Date"), the Issuer shall purchase the maximum principal amount of Notes and *pari passu* Indebtedness that may be purchased with such Excess Proceeds (which maximum principal amount of Notes and *pari passu* Indebtedness shall be the "Offer Amount") or, if less than the Offer Amount has been tendered, all Notes tendered in response to the Excess Proceeds Offer.

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(c) The Issuer shall comply with the requirements of Rule 14e-1 under the Exchange Act (or any successor rules) and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with the repurchase of the Notes pursuant to an Excess Proceeds Offer. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Section 3.08, the Issuer's compliance with such laws and regulations shall not in and of itself be deemed to have caused a breach of their obligations under this Section 3.08.

(d) If the Purchase Date is on or after an interest record date and on or before the related interest payment date, any accrued and unpaid interest shall be paid to the Person in whose name a Note is registered at the close of business on such record date, and no additional interest shall be payable to Holders who tender Notes pursuant to the Excess Proceeds Offer.

(e) Upon the commencement of any Excess Proceeds Offer, the Issuer shall send, by first class mail, a notice to each of the Holders of the Notes, with a copy to the Trustee. The notice shall contain all instructions and materials necessary to enable such Holders to tender Notes pursuant to the Excess Proceeds Offer. The notice, which shall govern the terms of the Excess Proceeds Offer, shall state:

- (i) that the Excess Proceeds Offer is being made pursuant to this Section 3.08 and the length of time the Excess Proceeds Offer shall remain open;
- (ii) the Offer Amount, the purchase price and the Purchase Date;
- (iii) that any Note not tendered or accepted for payment shall continue to accrue interest;
- (iv) that, unless the Issuer defaults in making such payment, any Note accepted for payment pursuant to the Excess Proceeds Offer shall cease to accrue interest after the Purchase Date;

(v) that Holders electing to have a Note purchased pursuant to any Excess Proceeds Offer shall be required to surrender the Note, with the form entitled "Option of Holder to Elect Purchase" on the reverse of the Note completed, to the Issuer, a Depositary, if appointed by the Issuer, or a Paying Agent at the address

specified in the notice at least three Business Days before the Purchase Date;

(vi) that Holders shall be entitled to withdraw their election if the Issuer, Depository or Paying Agent, as the case may be, receives, not later than the expiration of the Offer Period, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Note the Holder delivered for purchase and a statement that such Holder is unconditionally withdrawing his election to have the Note purchased;

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(vii) that, if the aggregate principal amount of Notes surrendered by Holders and other *pari passu* Indebtedness tendered by the holders thereof exceeds the Offer Amount, the Issuer shall select the Notes and other *pari passu* Indebtedness to be purchased on *pro rata* basis (with such adjustments as may be deemed appropriate by the Issuer so that only Notes in denominations of \$2,000 or integral multiples of \$1,000 in excess thereof, shall be purchased); and

(viii) that Holders whose Notes were purchased only in part shall be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered.

(f) On or before the Purchase Date, the Issuer shall, to the extent lawful, accept for payment, on *pro rata* basis to the extent necessary, the Offer Amount of Notes or portions thereof tendered pursuant to the Excess Proceeds Offer, or if less than the Offer Amount has been tendered, all Notes or portion thereof tendered, and deliver to the Trustee an Officers' Certificate stating that such Notes or portions thereof were accepted for payment by the Issuer in accordance with the terms of this Section 3.08. The Issuer, Depository or Paying Agent, as the case may be, shall promptly (but in any case not later than five days after the Purchase Date) mail or deliver to each tendering Holder an amount equal to the purchase price of the Note tendered by such Holder and accepted by the Issuer for purchase, and the Issuer shall promptly issue a new Note, and the Trustee shall authenticate and mail or deliver such new Note, to such Holder equal in principal amount to any unpurchased portion of the Note surrendered. Any Note not so accepted shall be promptly mailed or delivered by the Issuer to the Holder thereof. The Issuer shall publicly announce the results of the Excess Proceeds Offer on the Purchase Date.

(g) Other than as specifically provided in this Section 3.08, any purchase pursuant to this Section 3.08 shall be made pursuant to the provisions of Sections 3.01 through 3.06 hereof.

#### SECTION 3.09. *Special Mandatory Redemption.*

If the Issuer does not deliver a notice to the Escrow Agent on or prior to 5:00 p.m., New York City time, on September 30, 2008 that the Spin-Off will be consummated within five Business Days and that no Default or Event of Default hereunder has occurred and is continuing, and then consummate the Spin-Off within the five Business Day period, or if IAC elects to abandon the Spin-Off prior thereto, then the Issuer will, on a day not more than 10 Business Days following the Deadline or the date of the Release, as applicable (such date, the "*Special Mandatory Redemption Date*"), redeem all of the Notes (the "*Special Mandatory Redemption*") at a price equal to 100% of the principal amount of the Notes plus accrued and unpaid interest from the Issue Date (the "*Special Mandatory Redemption Price*").

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#### SECTION 3.10. *Notice of Special Mandatory Redemption.*

Notice of the Special Mandatory Redemption shall be prepared and mailed by the Issuer promptly to each Holder of Initial Notes at its registered address, the Trustee and the Escrow Agent.

### ARTICLE 4

#### COVENANTS

#### SECTION 4.01. *Payment of Notes.*

(a) The Issuer shall pay or cause to be paid the principal of, premium, if any, and interest on the Notes on the dates and in the manner provided in the Notes. Principal, premium, if any, and interest shall be considered paid on the date due if the Paying Agent, if other than the Issuer, holds as of 1:00 p.m. Eastern Time on the due date money deposited by or on behalf of the Issuer in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest then due. If a payment date is a Legal Holiday at a place of payment, payment may be made at that place on the next succeeding day that is not a Legal Holiday, and no interest shall accrue for the intervening period.

(b) The Issuer shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the rate equal to the then applicable interest rate on the Notes to the extent lawful; they shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace period) at the same rate to the extent lawful.

#### SECTION 4.02. *Maintenance of Office or Agency.*

(a) The Issuer shall maintain an office or agency (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar) where Notes may be surrendered for registration of transfer or for exchange and where notices and demands to or upon the Issuer in respect of the Notes and this Indenture may be served. The Issuer shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Issuer shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

(b) The Issuer may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; *provided, however*, that no such designation or rescission shall in any manner relieve the Issuer of its obligation to maintain an office or agency for such purposes. The Issuer shall give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

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(c) The Issuer hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Issuer in accordance with Section 2.03 hereof.

#### SECTION 4.03. *Reports.*



(a) Whether or not required by the rules and regulations of the Commission, so long as any Notes are outstanding, the Issuer shall furnish to the Holders of Notes all quarterly and annual financial information, and on dates, that would be required to be contained in a filing with the Commission on Forms 10-Q and 10-K if the Issuer was required to file such forms, including a "Management's Discussion and Analysis of Financial Condition and Results of Operations" and, with respect to the annual information only, a report thereon by the independent registered public accounting firm of the Issuer; *provided, however*, that (i) to the extent such reports are filed with the Commission and publicly available, no additional copies need be provided to Holders of the Notes and (ii) with respect to June 30, 2008 (and periods then ended), or for any prior dates or periods, the Issuer may satisfy such obligations by furnishing carve-out financial data in form and detail corresponding to the March 31, 2008 financial data included in the Offering Memorandum so long as such information is filed or provided on or before August 31, 2008. In addition, the Issuer will furnish to the Holders of the Notes substantially the same reports that would be required to be filed with the Commission on Form 8-K if the Issuer was required to file such forms.

(b) The Issuer will file such information with the Commission to the extent that the Commission is accepting such filings. In addition, the Issuer agrees that, for so long as any Notes remain outstanding during any period when it is not subject to Section 13 or 15(d) of the Exchange Act, or otherwise permitted to furnish the Commission with certain information pursuant to Rule 12g3-2(b) of the Exchange Act, it will furnish to the Holders of the Notes and to prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

(c) The Issuer shall provide the Trustee with a sufficient number of copies of all reports and other documents and information that the Trustee may be required to deliver to the Holders of the Notes under this Section 4.03.

#### SECTION 4.04. *Compliance Certificate.*

The Issuer shall deliver to the Trustee, within 120 days after the end of each fiscal year, an Officers' Certificate of the Issuer stating that a review of the activities of the Issuer and its Subsidiaries during the preceding fiscal year has been made under the supervision of the signing Officers with a view to determining whether the Issuer and Guarantors have kept, observed, performed and fulfilled their obligations under this Indenture and further stating, as to each such Officer signing such certificate, that to the best of his or her knowledge each such entity has kept, observed, performed and fulfilled each and every covenant contained in this Indenture and is not in default in the performance or observance of any of the terms, provisions and conditions hereof, including, without limitation, a default in the performance or breach of Section 4.07, Section 4.09, Section 4.10 or Section 4.15 hereof (or, if a Default or

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Event of Default shall have occurred, describing all such Defaults or Events of Default of which he or she may have knowledge and what action each is taking or proposes to take with respect thereto).

#### SECTION 4.05. *Taxes.*

The Issuer shall pay, and shall cause each of its Subsidiaries to pay, prior to delinquency, all material taxes, assessments, and governmental levies except as contested in good faith and by appropriate proceedings or where the failure to effect such payment is not adverse in any material respect to the Holders of the Notes.

#### SECTION 4.06. *Stay, Extension and Usury Laws.*

The Issuer covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance hereof; and the Issuer (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it shall not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law has been enacted.

#### SECTION 4.07. *Limitation on Restricted Payments.*

(a) Neither the Issuer nor any of its Restricted Subsidiaries may, directly or indirectly:

(i) pay any dividend or make any distribution on account of any Equity Interests of the Issuer other than dividends or distributions payable in Equity Interests (other than Disqualified Stock) of the Issuer;

(ii) purchase, redeem or otherwise acquire or retire for value any of the Issuer's Equity Interests or any Subordinated Indebtedness, other than (i) Subordinated Indebtedness within one year of the stated maturity date thereof and (ii) any such Equity Interests or Subordinated Indebtedness owned by the Issuer or by any Restricted Subsidiary;

(iii) pay any dividend or make any distribution on account of any Equity Interests of any Restricted Subsidiary, other than:

(A) to the Issuer or any Restricted Subsidiary; or

(B) to all Holders of any class or series of Equity Interests of such Restricted Subsidiary on a *pro rata* basis; or

(iv) make any Restricted Investment.

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(all such prohibited payments and other actions set forth in clauses (i) through (iv) being collectively referred to as "Restricted Payments"), unless, at the time of such Restricted Payment:

(1) no Default or Event of Default shall have occurred and be continuing or would occur as a consequence thereof;

(2) after giving effect to the incurrence of any Indebtedness the net proceeds of which are used to finance such Restricted Payment, the Issuer's Consolidated Fixed Charge Coverage Ratio would have been at least 2.0 to 1.0; and

(3) such Restricted Payment, together with the aggregate of all other Restricted Payments made by the Issuer after the Issue Date, is less than the sum of:

(A) 50% of the Consolidated Net Income of the Issuer for the period (taken as one accounting period) from July 1, 2008 to the end of the Issuer's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment (or, if such Consolidated Net Income shall be a deficit, minus 100% of such aggregate deficit); *plus*

(B) an amount equal to the sum of (x) 100% of the aggregate net cash proceeds received by the Issuer from the issue or sale of Equity Interests (other than Disqualified Stock) of the Issuer (other than Equity Interests sold to any of the Issuer's Subsidiaries), following the Issue Date and (y) the aggregate amount by which Indebtedness (other than any Indebtedness owed to the Issuer or a Subsidiary) incurred by the Issuer or any Restricted Subsidiary subsequent to the Issue Date is reduced on the Issuer's balance sheet upon the conversion or exchange into Qualified Capital Stock (less the amount of any cash, or the fair market value of assets, distributed by the Issuer or any Restricted Subsidiary upon such conversion or exchange); *plus*

(C) if any Unrestricted Subsidiary is designated by the Issuer as a Restricted Subsidiary, an amount equal to the fair market value of the net Investment by the Issuer or a Restricted Subsidiary in such Subsidiary at the time of such designation; *provided, however*, that the foregoing amount shall not exceed the amount of Restricted Investments made by the Issuer or any Restricted Subsidiary in any such Unrestricted Subsidiary following the Issue Date which reduced the amount available for Restricted Payments pursuant to this clause (iii) *less* amounts received by the Issuer or any Restricted Subsidiary from such Unrestricted Subsidiary that increased the amount available for Restricted Payments pursuant to clause (D) below; *plus*

(D) 100% of any cash dividends and other cash distributions actually received by the Issuer and its Restricted Subsidiaries from an Unrestricted

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Subsidiary since the Issue Date to the extent not included in Consolidated Net Income; *plus*

(E) to the extent not included in clauses (A) through (D) above, an amount equal to the net reduction in Restricted Investments of the Issuer and its Restricted Subsidiaries following the Issue Date resulting from payments in cash of interest on Indebtedness, dividends, or repayment of loans or advances, or other transfers of property, in each case, to the Issuer or to a Restricted Subsidiary or from the net cash proceeds from the sale, conveyance, liquidation or other disposition of any such Restricted Investment.

(b) The foregoing provisions will not prohibit the following (*provided* that with respect to clause (7) below, no Default or Event of Default shall have occurred and be continuing):

(1) the payment of any dividend or distribution within 60 days after the date of declaration thereof, if at the date of declaration such payment would have complied with the provisions hereof;

(2) the redemption, repurchase, retirement or other acquisition of (x) any Equity Interests of the Issuer in exchange for, or out of the net proceeds of the substantially concurrent issue or sale of, Equity Interests (other than Disqualified Stock) of the Issuer (other than Equity Interests (other than Disqualified Stock) issued or sold to any Subsidiary) or (y) Subordinated Indebtedness of the Issuer or any Restricted Subsidiary (a) in exchange for, or out of the proceeds of the substantially concurrent issuance and sale of, Qualified Capital Stock (other than issued or sold to any Subsidiary), (b) in exchange for, or out of the proceeds of the substantially concurrent incurrence of, Refinancing Indebtedness (other than owed to any Subsidiary) permitted to be incurred under clause (10) of Section 4.09(b) or other Indebtedness permitted to be incurred under Section 4.09 or (c) with the Net Proceeds from an Asset Sale or upon a Change of Control, in each case, to the extent required by the agreement governing such Subordinated Indebtedness but only if the Issuer shall have previously applied such Net Proceeds to make an Excess Proceeds Offer or made a Change of Control Offer, as the case may be, in accordance with Section 3.08 or Section 4.15 and purchased all Notes validly tendered pursuant to the relevant offer prior to redeeming or repurchasing such Subordinated Indebtedness;

(3) purchases of receivables or other assets pursuant to a Receivables Repurchase Obligation in connection with a Qualified Receivables Transaction and the payment or distribution of Receivables Fees;

(4) the declaration and payment of dividends to holders of any class or series of Disqualified Stock of the Issuer or any of its Restricted Subsidiaries or shares of Preferred Equity Interests of any Restricted Subsidiary issued in accordance with Section 4.09;

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(5) repurchases of Equity Interests deemed to occur upon exercise of stock options or warrants or upon the vesting of restricted stock units if such Equity Interests represent the exercise price of such options or warrants or represent withholding taxes due upon such exercise or vesting;

(6) Restricted Payments from the net proceeds of the Notes and the initial borrowings under the Credit Agreement as described in the Offering Memorandum;

(7) other Restricted Payments in an aggregate amount from the Issue Date not to exceed the greater of (x) \$50 million and (y) 1.25% of Consolidated Total Assets;

(8) Specified Affiliate Payments; and

(9) the Transactions.

(c) Restricted Payments made pursuant to Section 4.07(a) and clause (1) of Section 4.07(b) shall be included as Restricted Payments in any computation made pursuant to Section 4.07(a)(3). Restricted Payments made pursuant to clauses (2), (3), (4), (5), (6), (7), (8) and (9) of this Section 4.07(b) shall not be included as Restricted Payments in any computation made pursuant to Section 4.07(a)(3).

If the Issuer or any Restricted Subsidiary makes a Restricted Investment and the Person in which such Investment was made subsequently becomes a Restricted Subsidiary, to the extent such Investment resulted in a reduction in the amounts calculated under clause (3) of Section 4.07(a) or under any other provision of this Section 4.07 (which was not subsequently reversed), then such amount shall be increased by the amount of such reduction.

#### SECTION 4.08. ***Limitation on Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries.***

The Issuer shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to:

(a) pay dividends or make any other distribution to the Issuer or any of its Restricted Subsidiaries on its Capital Stock or with respect to any other interest or participation in, or measured by, its profits, or pay any Indebtedness owed to the Issuer or any of its Subsidiaries;

(b) make loans or advances to the Issuer or any of its Subsidiaries; or

(c) transfer any of its properties or assets to the Issuer or any of its Subsidiaries;

except for such encumbrances or restrictions existing under or by reason of:

- (i) Existing Indebtedness and existing agreements as in effect on the Issue Date;
- (ii) applicable law or regulation;
- (iii) any instrument governing Acquired Debt as in effect at the time of acquisition (except to the extent such Indebtedness was incurred in connection with, or in contemplation of, such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired;
- (iv) by reason of customary nonassignment provisions in leases entered into in the ordinary course of business and consistent with past practices;
- (v) Refinancing Indebtedness; *provided* that the restrictions contained in the agreements governing such Refinancing Indebtedness are no more restrictive than those contained in the agreements governing the Indebtedness being refinanced;
- (vi) this Indenture and the Notes or by the Issuer's other Indebtedness ranking *pari passu* with the Notes; *provided* that except as set forth in clause (vii) below such restrictions are no more restrictive taken as a whole than those imposed by this Indenture and the Notes;
- (vii) any Credit Facility; *provided* that such restriction is no more restrictive taken as a whole than that imposed by the Credit Agreement (and the collateral documents relating thereto) as in effect on the Issue Date (or on the date of Release, as applicable);
- (viii) Permitted Liens;
- (ix) any agreement for the sale of any Subsidiary or its assets that restricts distributions by that Subsidiary (or sale of such Subsidiary's Equity Interests) pending its sale; *provided* that during the entire period in which such encumbrance or restriction is effective, such sale (together with any other sales pending) would be permitted under the terms of this Indenture;
- (x) secured Indebtedness otherwise permitted to be incurred by this Indenture that limits the right of the debtor to dispose of the assets securing such Indebtedness;
- (xi) customary provisions in joint venture agreements and other similar agreements which are applicable to the Equity Interests of such joint venturer;
- (xii) Purchase Money Indebtedness that imposes restrictions of the type described in clause (c) above on the property so acquired;

- (xiii) Non-Recourse Receivables Subsidiary Indebtedness or other contractual requirements of a Receivables Subsidiary in connection with a Qualified Receivables Transaction; *provided* that such restrictions apply only to such Receivables Subsidiary or the receivables and related assets described in the definition of Qualified Receivables Transaction which are subject to such Qualified Receivables Transaction;
- (xiv) any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (i) through (xiii) above; *provided* that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the Issuer's good faith judgment, not materially more restrictive as a whole with respect to such encumbrances and restrictions than those prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing;
- (xv) Indebtedness of any Foreign Subsidiary which imposes restrictions solely on such Foreign Subsidiary and its Subsidiaries; or
- (xvi) any restriction on cash or other deposits or net worth imposed by customers or lessors or required by insurance, surety or bonding companies, in each case under contracts entered into in the ordinary course of business.

**SECTION 4.09. *Limitation on Incurrence of Indebtedness.***

(a) The Issuer shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable with respect to (collectively, "*incur*") any Indebtedness (including Acquired Debt) or permit any of its Restricted Subsidiaries to issue any Preferred Equity Interests; *provided, however*, that, notwithstanding the foregoing, the Issuer and any Guarantor may incur Indebtedness (including Acquired Debt) and any Guarantor may issue Preferred Equity Interests if, after giving effect to the incurrence of such Indebtedness or the issuance of such Preferred Equity Interests and the application of the net proceeds thereof on a pro forma basis, (i) the Issuer's Consolidated Fixed Charge Coverage Ratio would have been at least 2.0 to 1.0 and (ii) the Issuer's Consolidated Senior Indebtedness Leverage Ratio would have been no greater than 3.5 to 1.0.

(b) The foregoing limitation will not apply to any of the following incurrences of Indebtedness:

- (1) Indebtedness represented by the Notes (and any Exchange Notes issued in exchange therefor) and the Guarantees in an aggregate principal amount not to exceed \$240 million;
- (2) Indebtedness of the Issuer or any Restricted Subsidiary under any Credit Facility in an aggregate principal amount at any time outstanding not to exceed the excess of (x) \$375 million over (y) the sum of (A) the aggregate principal amount of

Indebtedness under the Credit Facilities permanently repaid pursuant to clause (1) of the second paragraph of Section 4.10 and (B) the Outstanding Receivables Amount at such time;

(3) (x) Indebtedness among the Issuer and its Restricted Subsidiaries; *provided* that any such Indebtedness owed by the Issuer or a Guarantor to any Restricted Subsidiary that is not a Guarantor, shall be subordinated to the prior payment in full of the Notes or the Guarantees, as applicable, and (y) Preferred Equity Interests of a Restricted Subsidiary held by the Issuer or a Restricted Subsidiary; *provided* that if such Preferred Equity Interests are issued by a Guarantor, such Preferred Equity Interests are held by the Issuer or a Guarantor;

(4) Acquired Debt of a Person incurred prior to the date upon which such Person was acquired by the Issuer or any Restricted Subsidiary (and not created in contemplation of such acquisition); *provided* that (x) the aggregate principal amount of Acquired Debt pursuant to this clause (4)(x) (when aggregated with the amount of Refinancing Indebtedness outstanding under clause (10) below in respect of Indebtedness incurred pursuant to this clause (4)(x)) shall not exceed \$35 million outstanding at any time or (y) after giving effect to the incurrence of such Acquired Debt on a pro forma basis, the Issuer's Consolidated Fixed Charge Coverage Ratio would have been at least 2.0 to 1.0;

(5) Existing Indebtedness;

(6) Indebtedness consisting of Purchase Money Indebtedness in an aggregate amount (when aggregated with the amount of Refinancing Indebtedness outstanding under clause (10) below in respect of Indebtedness incurred pursuant to this clause (6)) not to exceed the greater of (x) \$50 million and (y) 1.25% of Consolidated Total Assets outstanding at any time;

(7) Hedging Obligations of the Issuer or any of its Restricted Subsidiaries covering Indebtedness of the Issuer or such Restricted Subsidiary; *provided, however*, that such Hedging Obligations are entered into for purposes of managing interest rate exposure of the Issuer and its Restricted Subsidiaries and not for speculative purposes;

(8) Foreign Currency Obligations of the Issuer or any of its Restricted Subsidiaries entered into to manage exposure of the Issuer and its Restricted Subsidiaries to fluctuations in currency values and not for speculative purposes;

(9) Indebtedness of the Issuer or any of its Restricted Subsidiaries in respect of performance bonds, bankers' acceptances or letters of credit of the Issuer or any Restricted Subsidiary or surety or appeal bonds provided by the Issuer or any Restricted Subsidiary incurred in the ordinary course of business and on ordinary business terms in connection with a Permitted Business;

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(10) the incurrence by the Issuer or any Restricted Subsidiary of Indebtedness issued in exchange for, or the proceeds of which are used to extend, refinance, renew, replace, substitute or refund in whole or in part, Indebtedness referred to in paragraph (a) of this Section 4.09 or in clause (1), (4), (5) or (6) or this clause (10) of this Section 4.09(b) ("*Refinancing Indebtedness*"); *provided, however*, that:

(A) the principal amount of such Refinancing Indebtedness shall not exceed the principal amount and accrued interest of the Indebtedness so exchanged, extended, refinanced, renewed, replaced, substituted or refunded and any premiums payable and reasonable fees, expenses, commissions and costs in connection therewith;

(B) the Refinancing Indebtedness shall have a final maturity equal to or later than, and a Weighted Average Life to Maturity equal to or greater than, the final maturity and Weighted Average Life to Maturity, respectively, of the Indebtedness being exchanged, extended, refinanced, renewed, replaced, substituted or refunded;

(C) the Refinancing Indebtedness shall be subordinated in right of payment to the Notes and the Guarantees, if at all, on terms at least as favorable to the Holders of Notes as those contained in the documentation governing the Indebtedness being exchanged, extended, refinanced, renewed, replaced, substituted or refunded; and

(D) if the Indebtedness to be exchanged, refinanced, renewed, replaced, substituted or refunded was the obligation of the Issuer or a Guarantor, such Indebtedness shall not be incurred by any of the Issuer's Restricted Subsidiaries other than a Guarantor or any Restricted Subsidiary that was an obligor under the Indebtedness so refinanced;

(11) additional Indebtedness in an aggregate principal amount not to exceed the greater of (x) \$50 million and (y) 1.25% of Consolidated Total Assets at any one time outstanding;

(12) the guarantee by the Issuer or any Guarantor of Indebtedness of the Issuer or a Restricted Subsidiary that was permitted to be incurred by another provision of this Section 4.09 and the guarantee by any Restricted Subsidiary that is not a Guarantor of any Indebtedness of any Restricted Subsidiary that is not a Guarantor;

(13) Non-Recourse Receivables Subsidiary Indebtedness (as defined in the definition of "Receivables Subsidiary") incurred by any Receivables Subsidiary in a Qualified Receivables Transaction; *provided* that the aggregate Outstanding Receivables Amount at any time, when aggregated with the amount of Indebtedness outstanding in reliance on clause (b)(2) above at such time, shall not exceed \$375 million;

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(14) the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Disqualified Capital Stock in the form of additional shares of the same class of Disqualified Capital Stock;

(15) the incurrence by the Issuer or its Subsidiaries of guarantees in respect of obligations of joint ventures; *provided* that the aggregate principal amount of Indebtedness incurred pursuant to this clause (15) shall not exceed \$25 million outstanding at any time;

(16) Indebtedness of Foreign Subsidiaries in an aggregate principal amount not to exceed \$15 million at any time outstanding;

(17) overdrafts paid within 5 Business Days;

(18) customary purchase price adjustments and indemnifications in connection with acquisition or disposition of stock or assets; and

(19) guarantees to suppliers, licensors or franchisees (other than guarantees of Indebtedness) in the ordinary course of business.

(c) For purposes of determining compliance with this Section 4.09, (1) the outstanding principal amount of any item of Indebtedness shall be counted only once, and any obligation arising under any guarantee, Lien, letter of credit or similar instrument supporting such Indebtedness incurred in compliance with this Section 4.09 shall be disregarded, and (2) if an item of Indebtedness meets the criteria of more than one of the categories described in clauses (b)(1) through (19) above or is permitted to be incurred pursuant to Section 4.09(a) and also meets the criteria of one or more of the categories described in clauses (b)(1) through (19) of this Section 4.09, the Issuer shall, in its sole discretion, classify such item of Indebtedness in any manner that complies with this Section 4.09 and may from time to time reclassify such item of Indebtedness in any manner in which such item could be incurred at the time of such reclassification; *provided* that Indebtedness outstanding under the Credit Agreement on the Issue Date or on the date of the Release, as applicable (and any Indebtedness secured by a Lien that refinances such Indebtedness) shall be deemed to be outstanding under

paragraph (b)(2) above and may not be reclassified.

(d) Accrual of interest, the accretion of original issue discount and the payment of interest in the form of additional Indebtedness of the same class shall not be deemed to be an incurrence of Indebtedness for purposes of determining compliance with this Section 4.09. Any increase in the amount of Indebtedness solely by reason of currency fluctuations shall not be deemed to be an incurrence of Indebtedness for purposes of determining compliance with this Section 4.09. A change in GAAP that results in an obligation existing at the time of such change, not previously classified as Indebtedness, becoming Indebtedness will not be deemed to be an incurrence of Indebtedness for purposes of determining compliance with this Section 4.09.

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(e) The amount of indebtedness outstanding as of any date shall be (1) the accreted value thereof, in the case of any Indebtedness issued with original issue discount, (2) the principal amount thereof, in the case of any other Indebtedness, (3) in the case of the guarantee by the specified Person of any Indebtedness of any other Person, the maximum liability to which the specified Person may be subject upon the occurrence of the contingency giving rise to the obligation and (4) in the case of Indebtedness of others guaranteed by means of a Lien on any asset of the specified Person, the lesser of (A) the fair market value of such asset on the date on which Indebtedness is required to be determined pursuant to this Indenture and (B) the amount of the Indebtedness so secured.

(f) For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated by the Issuer based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term Indebtedness, or first committed, in the case of revolving credit Indebtedness; *provided* that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar-dominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-dominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced. Notwithstanding any other provision of this Section 4.09, the maximum amount of Indebtedness that the Issuer may incur pursuant to this Section 4.09 shall not be deemed to be exceeded solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such Refinancing Indebtedness is denominated that is in effect on the date of such refinancing.

#### SECTION 4.10. *Limitation on Asset Sales.*

The Issuer shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, consummate any Asset Sale unless:

- (1) the Issuer or such Restricted Subsidiary receives consideration at the time of such Asset Sale at least equal to the fair market value (determined as of the time of contractually agreeing to such Asset Sale) of the assets included in such Asset Sale (such fair market value to be determined by (i) an executive officer of the Issuer or such Subsidiary if the value is less than \$25 million or (ii) in all other cases by a resolution of the Issuer's Board of Directors (or of a committee appointed thereby for such purposes));
- (2) at least 75% of the total consideration in such Asset Sale consists of cash, Cash Equivalents or Marketable Securities.

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For purposes of clause (2), the following shall be deemed to be cash:

- (a) the amount (without duplication) of any Indebtedness (other than Subordinated Indebtedness) of the Issuer or such Restricted Subsidiary that is expressly assumed by the transferee in such Asset Sale and with respect to which the Issuer or such Restricted Subsidiary, as the case may be, is unconditionally released by the holder of such Indebtedness,
- (b) the amount of any obligations or securities received from such transferee that are within 180 days converted by the Issuer or such Restricted Subsidiary to cash (to the extent of the cash actually so received), and
- (c) the fair market value of any assets (other than securities) received by the Issuer or any Restricted Subsidiary to be used by the Issuer or any Restricted Subsidiary in a Permitted Business.

If the Issuer or any Restricted Subsidiary engages in an Asset Sale, the Issuer or such Restricted Subsidiary shall apply all or any of the Net Proceeds therefrom to:

- (1) repay Indebtedness under any Credit Facility, and in the case of any such repayment under any revolving credit facility, effect a permanent reduction in the availability under such revolving credit facility; or
- (2) (A) invest all or any part of the Net Proceeds thereof in capital expenditures or the purchase of assets to be used by the Issuer or any Restricted Subsidiary in a Permitted Business, (B) acquire Equity Interests in a Person that is a Restricted Subsidiary or in a Person engaged primarily in a Permitted Business that shall become a Restricted Subsidiary immediately upon the consummation of such acquisition or (C) a combination of (A) and (B).

Any Net Proceeds from any Asset Sale that are not applied or invested (or committed pursuant to a written agreement to be applied) as provided in the preceding paragraph within 365 days after the receipt thereof and, in the case of any amount committed to a reinvestment, which are not actually so applied within 180 days following such 365-day period shall constitute "*Excess Proceeds*" and shall be applied to an offer to purchase Notes and other senior Indebtedness of the Issuer if and when required under Section 3.08. Pending the final application of any such Net Proceeds, the Issuer or such Restricted Subsidiary may temporarily reduce revolving indebtedness under a Credit Facility, if any, or otherwise invest such Net Proceeds in Cash Equivalents.

#### SECTION 4.11. *Limitation on Transactions with Affiliates.*

The Issuer shall not and shall not permit any Restricted Subsidiary to, directly or indirectly, sell, lease, transfer or otherwise dispose of any of the Issuer's or any Restricted Subsidiary's properties or assets to, or purchase any property or assets from, or enter into any contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any

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Affiliate (including any Unrestricted Subsidiary) (each of the foregoing, an "*Affiliate Transaction*"), unless:

(a) such Affiliate Transaction is on terms that are not materially less favorable, taken as a whole, to the Issuer or such Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Issuer or such Restricted Subsidiary with an unrelated Person; *provided* that such transaction shall be deemed to be at least as favorable as the terms that could have been obtained in a comparable transaction with an unrelated Person if such transaction is approved by the members of (x) the Board of Directors or (y) any duly constituted committee thereof, in each case including a majority of the disinterested members thereof who meet the independence requirements of the New York Stock Exchange or NASDAQ; and

(b) if such Affiliate Transaction involves aggregate payments in excess of the greater of (A) \$25.0 million and (B) 0.75% of Consolidated Total Assets, either (i) such Affiliate Transaction has been approved by a resolution of the members of (x) the Issuer's Board of Directors or (y) any duly constituted committee thereof, in each case including a majority of the disinterested members thereof who meet the independence requirements of the New York Stock Exchange or NASDAQ or (ii) if there are no disinterested directors on the Issuer's Board of Directors, the Issuer or such Restricted Subsidiary has obtained the favorable opinion of an Independent Financial Advisor as to the fairness of such Affiliate Transaction to the Issuer or the relevant Restricted Subsidiary, as the case may be, from a financial point of view;

*provided, however*, that the following shall, in each case, not be deemed Affiliate Transactions:

- (i) the payment of compensation (including benefits and incentive arrangements) to directors and management of the Issuer and its Subsidiaries;
- (ii) indemnification or similar arrangements for officers, directors, employees or agents of the Issuer or any of its Restricted Subsidiaries pursuant to charter, bylaw, statutory or contractual provisions;
- (iii) transactions between or among the Issuer and its Restricted Subsidiaries;
- (iv) Restricted Payments permitted by Section 4.07 and Permitted Investments (other than transactions with a Person that is an Affiliate other than as a result of such Investment);
- (v) any transactions between the Issuer or any of its Restricted Subsidiaries and any Affiliate of the Issuer the Equity Interests of which Affiliate are owned solely by the Issuer or one of its Restricted Subsidiaries, on the one hand, and by Persons who are not Affiliates of the Issuer or its Restricted Subsidiaries, on the other hand;

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(vi) any agreements or arrangements in effect on the Issue Date and described in the Offering Memorandum and any modifications, extensions or renewals thereof that are no less favorable to the Issuer or the applicable Restricted Subsidiary in any material respect than such agreement as in effect on the Issue Date;

(vii) so long as it complies with clause (a) above, customary transactions with suppliers or purchasers or sellers of goods or services in the ordinary course of business;

(viii) the Transactions;

(ix) transactions effected as part of a Qualified Receivables Transaction; and

(x) Specified Affiliate Payments.

#### SECTION 4.12. *Limitation on Liens.*

The Issuer shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, create, incur or assume any Lien on any asset now owned or hereafter acquired, or on any income or profits therefrom or assign or convey any right to receive income therefrom, except Permitted Liens.

#### SECTION 4.13. *Additional Subsidiary Guarantees.*

If (a) any of the Issuer's Domestic Subsidiaries (other than a Receivables Subsidiary) that is not a Guarantor guarantees or becomes otherwise obligated under a Credit Facility or Indebtedness incurred in reliance on Section 4.09(a), or (b) the Issuer or any of its Restricted Subsidiaries transfers or causes to be transferred, in one transaction or a series of related transactions, any property to any Restricted Subsidiary (other than a Receivables Subsidiary) that is a Domestic Subsidiary but not a Guarantor, or if the Issuer or any of its Subsidiaries shall organize, acquire or otherwise invest in another Domestic Restricted Subsidiary (other than a Receivables Subsidiary) and, in any case, the Subsidiary organized or acquired or to which such transfer or investment was made has total assets in excess of \$10.0 million, then in each case such guarantor, obligor, transferee or acquired or other Domestic Restricted Subsidiary shall (i) execute and deliver to the Trustee a supplemental indenture in form reasonably satisfactory to the Trustee pursuant to which such Restricted Subsidiary shall unconditionally guarantee all of the Issuer's obligations under the Notes and this Indenture on the terms set forth in this Indenture and (ii) deliver to the Trustee an Opinion of Counsel that such supplemental indenture has been duly authorized, executed and delivered by such Restricted Subsidiary and constitutes a legal, valid, binding and enforceable obligation of such Restricted Subsidiary. Thereafter, such Restricted Subsidiary shall be a Guarantor for all purposes hereof; *provided, however*, that to the extent that a Restricted Subsidiary that is required to become a Guarantor solely pursuant to clause (b) above is subject to any instrument governing Acquired Debt, as in effect at the time of acquisition thereof and not created in contemplation thereof, that prohibits such Restricted Subsidiary from issuing a Guarantee, such

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Restricted Subsidiary shall not be required to execute such a supplemental indenture until it is permitted to issue such Guarantee pursuant to the terms of such Acquired Debt.

#### SECTION 4.14. *Organizational Existence.*

Subject to Article 5 hereof and the proviso to this Section 4.14, the Issuer shall do or cause to be done all things necessary to preserve and keep in full force and effect (i) its existence as a corporation and, subject to Section 4.10 hereof, the corporate, limited liability company, partnership or other existence of any Restricted Subsidiary, in accordance with the respective organizational documents (as the same may be amended from time to time) of the Issuer or any Restricted Subsidiary and (ii) subject to Section 4.10 hereof, the rights (charter and statutory) of the Issuer and its Restricted Subsidiaries; *provided, however*, that the Issuer shall not be required to preserve any such right or the corporate, partnership or other existence of any Restricted Subsidiary if the Board of Directors of the Issuer shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Issuer and its Subsidiaries, taken as a whole, and that the loss thereof is not adverse in any material respect to the Holders of the Notes.

#### SECTION 4.15. *Change of Control.*

Upon the occurrence of a Change of Control, the Issuer shall make an offer (a "*Change of Control Offer*") to each Holder of Notes to repurchase all or any part

(equal to \$1,000 or an integral multiple thereof) of such Holder's Notes at a purchase price equal to 101% of the aggregate principal amount thereof, together with accrued and unpaid interest thereon to the date of repurchase (subject to the rights of holders of record of the Notes on the relevant record date to receive payments of interest on the related interest payment date) (in either case, the "Change of Control Payment"). Within 30 days following any Change of Control, the Issuer shall mail a notice to each Holder with a copy to the Trustee stating:

- (1) that the Change of Control Offer is being made pursuant to this Section 4.15;
- (2) the purchase price and the purchase date, which shall be no earlier than 30 days and not later than 60 days after the date such notice is mailed (the "Change of Control Payment Date");
- (3) that any Notes not tendered will continue to accrue interest in accordance with the terms hereof;
- (4) that, unless the Issuer defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer shall cease to accrue interest on the Change of Control Payment Date;
- (5) that Holders will be entitled to withdraw their election if the Paying Agent receives, not later than the close of business on the second Business Day preceding the Change of Control Payment Date, a telegram, telex, facsimile transmission or letter

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setting forth the name of the Holder, the principal amount of Notes delivered for purchase, and a statement that such Holder is unconditionally withdrawing its election to have such Notes purchased;

- (6) that Holders whose Notes are being purchased only in part will be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered, which unpurchased portion must be equal to \$2,000 in principal amount or an integral multiple of \$1,000 in excess thereof, and
- (7) any other information material to such Holder's decision to tender Notes.

The Issuer will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with the repurchase of the Notes required in the event of a Change of Control. The Issuer will not be required to make a Change of Control Offer upon a Change of Control if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Indenture applicable to Change of Control Offer made by the Issuer. The Issuer's obligations in respect of a Change of Control Offer can be modified with the consent of holders of a majority of the aggregate principal amount of Notes then outstanding at any time prior to the occurrence of a Change of Control. Notwithstanding anything to the contrary herein, a Change of Control Offer may be made in advance of a Change of Control, conditional upon such Change of Control, if a definitive agreement is in place for the Change of Control at the time of making of the Change of Control Offer.

SECTION 4.16. *[Intentionally Omitted]*

SECTION 4.17. *[Intentionally Omitted].*

SECTION 4.18. *Payments for Consent.*

The Issuer shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Holder of Notes for or as an inducement to any consent, waiver or amendment of any of the terms or provisions hereof or the Notes unless such consideration is offered to be paid and is paid to all Holders of the Notes that are either Qualified Institutional Buyers (as defined in Rule 144A of the Securities Act) or that are located outside of the United States and, in each case, that consent, waive or agree to amend in the time frame set forth in the solicitation documents relating to such consent, waiver or agreement.

SECTION 4.19. *Suspension of Covenants.*

During any period of time after the Issue Date that (i) the Notes are rated Investment Grade by both Rating Agencies and (ii) no Default has occurred and is continuing under this Indenture (the occurrence of the events described in the foregoing clauses (i) and (ii) being

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collectively referred to as a "Covenant Suspension Event"), the Issuer and its Restricted Subsidiaries will not be subject to the following Sections (the "Suspended Covenants"):

- (1) Section 3.08;
- (2) Section 4.07;
- (3) Section 4.08;
- (4) Section 4.09;
- (5) Section 4.10;
- (6) Section 4.11; and
- (7) clause (d) of the first paragraph of Section 5.01;

At such time as Sections 3.08, 4.07, 4.08, 4.09, 4.10, 4.11 and clause (d) of the first paragraph of Section 5.01 are suspended (a "Suspension Period"), the Issuer shall no longer be permitted to designate any Restricted Subsidiary as an Unrestricted Subsidiary.

In the event that the Issuer and its Restricted Subsidiaries are not subject to the Suspended Covenants for any period of time as a result of the foregoing, and on any subsequent date (the "Reversion Date") one or both of the Rating Agencies withdraw their Investment Grade Rating or downgrade the rating assigned to the Notes below Investment Grade, then the Issuer and its Restricted Subsidiaries shall thereafter again be subject to the Suspended Covenants with respect to future events.

On each Reversion Date, all Indebtedness incurred during the Suspension Period prior to such Reversion Date will be deemed to be Existing Indebtedness. For purposes of calculating the amount available to be made as Restricted Payments under clause (3) of Section 4.07(a), calculations under such section shall be made as though

such section had been in effect during the entire period of time after the Issue Date (including the Suspension Period). Restricted Payments made during the Suspension Period not otherwise permitted pursuant to any of clauses (2) through (9) of Section 4.07(b) will reduce the amount available to be made as Restricted Payments under clause (3) of Section 4.07(a), *provided* that the amount available to be made as Restricted Payments on the Reversion Date shall not be reduced to below zero solely as a result of such Restricted Payments. For purposes of Section 3.08, on the Reversion Date, the unutilized amount of Net Proceeds will be reset to zero. Notwithstanding the foregoing, neither (a) the continued existence, after the Reversion Date, of facts and circumstances or obligations that were incurred or otherwise came into existence during a Suspension Period nor (b) the performance of any such obligations, shall constitute a breach of any covenant set forth herein or cause a Default or Event of Default thereunder; *provided* that (1) the Issuer and its Restricted Subsidiaries did not incur or otherwise cause such facts and circumstances or obligations to exist in anticipation of a withdrawal or downgrade by the applicable

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Rating Agency below an Investment Grade Rating and (2) the Issuer reasonably believed that such incurrence or actions would not result in such withdrawal or downgrade.

**SECTION 4.20. Escrow of Proceeds; Release.**

(a) Concurrently with the closing of the offering of the Initial Notes, the Issuer shall enter into an escrow agreement (the "*Escrow Agreement*") with the Trustee and The Bank of New York Mellon, as escrow agent (the "*Escrow Agent*"), pursuant to which the Issuer will deposit with the Escrow Agent for the benefit of the Trustee an amount equal to the net proceeds of the offering of the Initial Notes sold on the Issue Date and an additional amount in cash, cash equivalents (as defined in the Escrow Agreement) or treasury securities (as defined in the Escrow Agreement) (collectively, with any other property from time to time held by the Escrow Agent, the "*Escrowed Property*") sufficient as certified by the Issuer in an Officer's Certificate to redeem the Initial Notes in cash at a redemption price equal to 100% the principal amount of the Initial Notes, plus accrued and unpaid interest on the Initial Notes to October 14, 2008 (the "*Special Mandatory Redemption Amount*"). All interest earned on the Escrowed Property shall be paid to the Issuer upon the Issuer's request, subject to the Issuer's obligation to maintain in the escrow account at all times prior to the Release an amount equal to the Special Mandatory Redemption Amount.

(b) The Escrowed Property shall be released to the Issuer (the "*Release*") promptly upon the satisfaction of the conditions set forth in the Escrow Agreement. Upon the Release, the escrow account under the Escrow Agreement shall be reduced to zero and the Escrowed Property and interest thereon paid out in accordance with the Escrow Agreement.

(c) From the Issue Date until the Release, the Trustee shall, for the benefit of the Holders of the Notes, be granted an exclusive first priority Lien on the Escrowed Property. Upon the Release, the Lien of the Trustee on the Escrowed Property shall be extinguished.

(d) The "*Deadline*" is September 30, 2008, or such earlier date as the Issuer shall notify the Trustee in writing of IAC's announcement that it will not pursue the consummation of the Spin-Off.

ARTICLE 5

SUCCESSORS

**SECTION 5.01. Merger, Consolidation or Sale of Assets.**

The Issuer shall not consolidate or merge with or into (whether or not the Issuer is the surviving entity), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets in one or more related transactions to, another Person unless:

(a) the Issuer is the surviving Person or the Person formed by or surviving any such consolidation or merger (if other than the Issuer) or to which such sale, assignment,

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transfer, lease, conveyance or other disposition shall have been made is a corporation, limited partnership or limited liability company organized or existing under the laws of the United States, any state thereof or the District of Columbia; *provided, however*, that if the surviving Person is a limited liability company or limited partnership, such entity shall also form a co-issuer that is a corporation;

(b) the Person formed by or surviving any such consolidation or merger (if other than the Issuer) or the Person to which such sale, assignment, transfer, lease, conveyance or other disposition shall have been made assumes all the obligations of the Issuer pursuant to a supplemental indenture in form reasonably satisfactory to the Trustee, under the Notes and this Indenture;

(c) immediately after such transaction, no Default or Event of Default exists; and

(d) the Issuer or the Person formed by or surviving any such consolidation or merger (if other than the Issuer) or to which such sale, assignment, transfer, lease, conveyance or other disposition will have been made:

(i) will have a Consolidated Fixed Charge Coverage Ratio immediately after the transaction (but prior to any purchase accounting adjustments or accrual of deferred tax liabilities resulting from the transaction) not less than the Issuer's Consolidated Fixed Charge Coverage Ratio immediately preceding the transaction; or

(ii) would, at the time of such transaction after giving pro forma effect thereto as if such transaction had occurred at the beginning of the applicable four-quarter period, have a Consolidated Fixed Charge Coverage Ratio equal to at least 2.0 to 1.0.

Notwithstanding the foregoing clause (d):

(1) any Restricted Subsidiary may consolidate with or merge into or transfer all or part of its properties and assets to the Issuer or another Restricted Subsidiary;

(2) the Issuer may complete the Transactions; and

(3) the Issuer may merge with a Restricted Subsidiary solely for the purpose of reorganizing the Issuer in another jurisdiction of the United States so long as the amount of Indebtedness of the Issuer and the Restricted Subsidiary is not increased thereby.

**SECTION 5.02. Successor Corporation Substituted.**



successor corporation, LLC or LP formed by such consolidation or into or with which the Issuer is merged or to which such sale, lease, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, lease, conveyance or other disposition, the provisions hereof referring to the Issuer shall refer instead to the successor corporation and not to the Issuer), and may exercise every right and power of, the Issuer under this Indenture with the same effect as if such successor Person has been named as the Issuer herein. When a successor corporation, LLC or LP assumes all the obligations of the Issuer under the Notes and the Indenture pursuant to this Article 5, the applicable predecessor shall be released from the obligations so assumed.

## ARTICLE 6

### DEFAULTS AND REMEDIES

#### SECTION 6.01. *Events of Default.*

Each of the following constitutes an “*Event of Default*”:

- (a) default for 30 days in the payment when due of interest or additional interest, if any, on the Notes;
- (b) default in the payment when due of principal of or premium, if any, on the Notes at maturity, upon repurchase, redemption or otherwise;
- (c) failure to comply with the provisions of Section 3.08 or Section 5.01 hereof;
- (d) failure to comply for 30 days after notice with any obligations under the provisions described under Section 4.10 or Section 4.15 (other than a failure to purchase Notes duly tendered to the Issuer for repurchase pursuant to a Change of Control Offer or an Excess Proceeds Offer);
- (e) subject to the second paragraph of Section 6.02 hereof, default under any other provision of this Indenture or the Notes, which default remains uncured for 60 days after notice from the Trustee or the Holders of at least 25% of the aggregate principal amount then outstanding of the Notes;
- (f) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Issuer and any of its Restricted Subsidiaries (or the payment of which is guaranteed by the Issuer and any of its Restricted Subsidiaries), other than Non-Recourse Receivables Subsidiary Indebtedness, which default is caused by a failure to pay the principal of such Indebtedness at the final stated maturity thereof within the grace period provided in such Indebtedness (a “*Payment Default*”), and the principal amount of any such Indebtedness, together with the principal amount of any other

such Indebtedness under which there has been a Payment Default, aggregates \$25 million or more;

- (g) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Issuer and any of its Restricted Subsidiaries (or the payment of which is guaranteed by the Issuer or any of its Restricted Subsidiaries), other than Non-Recourse Receivables Subsidiary Indebtedness, which default results in the acceleration of such Indebtedness prior to its express maturity not rescinded or cured within 30 days after such acceleration, and the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated and remains undischarged after such 30 day period, aggregates \$25 million or more;
- (h) failure by the Issuer and any of its Restricted Subsidiaries to pay final judgments (other than any judgment as to which a reputable insurance company has accepted full liability) aggregating \$25 million or more, which judgments are not stayed within 60 days after their entry other than judgments in respect of Non-Recourse Receivables Subsidiary Indebtedness;
- (i) any Guarantee of a Significant Subsidiary shall be held in a judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect, or any Guarantor that qualifies as a Significant Subsidiary, or any Person acting on behalf of any Guarantor that qualifies as a Significant Subsidiary, shall deny or disaffirm its obligations under its Guarantee;
- (j) the Issuer or any Significant Subsidiary of the Issuer pursuant to or within the meaning of Bankruptcy Law (i) commences a voluntary case; (ii) consents to the entry of an order for relief against it in an involuntary case; (iii) consents to the appointment of a custodian of it or for all or substantially all of its property; or (iv) makes a general assignment for the benefit of its creditors;
- (k) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that: (i) is for relief against the Issuer or any Significant Subsidiary of the Issuer in an involuntary case; (ii) appoints a custodian of the Issuer, IAC or any Significant Subsidiary of the Issuer or for all or substantially all of the property of the Issuer or any Significant Subsidiary of the Issuer; or (iii) orders the liquidation of the Issuer or any Significant Subsidiary of the Issuer, and the order or decree remains unstayed and in effect for 60 consecutive days; and
- (l) failure by the Issuer (or any parent company of the Issuer) to consummate the Special Mandatory Redemption, if applicable.

#### SECTION 6.02. *Acceleration.*

If any Event of Default occurs and is continuing, the Trustee by notice to the Issuer or the Holders of at least 25% of the aggregate principal amount then outstanding of the Notes by written notice to the Issuer and the Trustee, may declare all the Notes to be due and payable immediately. Notwithstanding the foregoing, in the case of an Event of Default specified in paragraph (j) or (k) of Section 6.01 hereof with respect to the Issuer, all outstanding Notes shall become and shall be immediately due and payable without further action or notice. Holders of the Notes may not enforce this Indenture or the Notes except as provided in this Indenture. The Trustee may withhold from Holders of the Notes notice of any continuing Default or Event of Default (except a Default or Event of Default relating to the payment of principal or interest) if it determines that withholding notice is in such Holders' interest.

Any failure to perform, or breach under Section 4.03 shall not be a Default or an Event of Default until the 121st day after the Issuer has received the notice referred to in clause (e) of Section 6.01 (at which point, unless cured or waived, such failure to perform or breach shall constitute an Event of Default). Prior to such 121st day, remedies against the Issuer for any such failure or breach will be limited to additional interest at a rate per year equal to 0.25% of the principal amount of such Notes from the 60th day following such notice to and including the 121st day following such notice.

**SECTION 6.03. *Other Remedies.***

If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal, premium, if any, and interest on the Notes or to enforce the performance of any provision of the Notes and this Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder of a Note in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. All remedies are cumulative to the extent permitted by law.

**SECTION 6.04. *Waiver of Past Defaults.***

Holders of not less than a majority in aggregate principal amount of Notes then outstanding, by written notice to the Trustee, may on behalf of the Holders of all of the Notes waive an existing Default or Event of Default and its consequences under this Indenture, except a continuing Default or Event of Default in the payment of the principal of, premium, if any, or interest on, the Notes. Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose hereof; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

**SECTION 6.05. *Control by Majority.***

Holders of a majority in principal amount of the then outstanding Notes may direct the time, method and place of conducting any proceeding for exercising any remedy available to

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the Trustee or exercising any trust or power conferred on it. However, the Trustee may refuse to follow any direction that conflicts with the law or this Indenture that the Trustee determines may be unduly prejudicial to the rights of other Holders of Notes or that may involve the Trustee in personal liability.

**SECTION 6.06. *Limitation on Suits.***

A Holder of a Note may pursue a remedy with respect to this Indenture or the Notes only if:

- (a) the Holder of a Note gives to the Trustee written notice of a continuing Event of Default;
- (b) the Holders of at least 25% in principal amount of the then outstanding Notes make a written request to the Trustee to pursue the remedy;
- (c) such Holder of a Note or Holders of Notes offer and, if requested, provide to the Trustee indemnity satisfactory to the Trustee against any loss, liability or expense;
- (d) the Trustee does not comply with the request within 60 days after receipt of the request and the offer and, if requested, the provision of indemnity; and
- (e) during such 60-day period the Holders of a majority in principal amount of the then outstanding Notes do not give the Trustee a direction inconsistent with the request.

A Holder of a Note may not use this Indenture to prejudice the rights of another Holder of a Note or to obtain a preference or priority over another Holder of a Note.

**SECTION 6.07. *Rights of Holders of Notes To Receive Payment.***

Notwithstanding any other provision hereof, the right of any Holder of a Note to receive payment of principal, premium, if any, and interest on the Note, on or after the respective due dates expressed in the Note, or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of the Holder of the Note.

**SECTION 6.08. *Collection Suit by Trustee.***

If an Event of Default specified in Section 6.01(a) or (b) hereof occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Issuer for the whole amount of principal of, premium, if any, and interest remaining unpaid on the Notes and interest on overdue principal and, to the extent lawful, interest and such further amount as shall be sufficient to cover the costs and expenses of collection,

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including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

**SECTION 6.09. *Trustee May File Proofs of Claim.***

The Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the Notes allowed in any judicial proceedings relative to the Issuer (or any other obligor upon the Notes), the Issuer's creditors or the Issuer's property and shall be entitled and empowered to collect, receive and distribute any money or other property payable or deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder of a Note to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders of the Notes, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties which the Holders of the Notes may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder of a Note any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder of a Note thereof, or to authorize the Trustee to vote in respect of the claim of any Holder of a Note in any such proceeding.

SECTION 6.10. **Priorities.**

If the Trustee collects any money pursuant to this Article 6, it shall pay out the money in the following order:

First: to the Trustee, its agents and attorneys for amounts due under Section 7.07 hereof, including payment of all compensation, expense and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

Second: to Holders of Notes for amounts due and unpaid on the Notes for principal, premium, if any, and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal, premium, if any and interest, respectively; and

Third: to the Issuer or to such party as a court of competent jurisdiction shall direct in writing.

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The Trustee may fix a record date and payment date for any payment to Holders of Notes.

SECTION 6.11. **Undertaking for Costs.**

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as a Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by a Holder of a Note pursuant to Section 6.07 hereof, or a suit by Holders of more than 10% in principal amount of the then outstanding Notes pursuant to this Article 6.

ARTICLE 7

TRUSTEE

SECTION 7.01. **Duties of Trustee.**

(a) If an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent Person would exercise or use under the circumstances in the conduct of his or her own affairs.

(b) Except during the continuance of an Event of Default,

(i) the duties of the Trustee shall be determined solely by the express provisions hereof and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements hereof. However, in the case of certificates or opinions specifically required by any provision hereof to be furnished to it, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements hereof but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein.

(c) The Trustee may not be relieved from liabilities for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that

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(i) this paragraph does not limit the effect of paragraph (b) of this Section 7.01;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05 hereof.

(d) Whether or not therein expressly so provided, every provision hereof that in any way relates to the Trustee is subject to paragraphs (a), (b), and (c) of this Section 7.01.

(e) No provision hereof shall require the Trustee to expend or risk its own funds or incur any liability. The Trustee shall be under no obligation to exercise any of its rights or powers under this Indenture at the request of any Holders of Notes, unless such Holder shall have offered to the Trustee security and indemnity satisfactory to the Trustee against any loss, liability or expense.

(f) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Issuer. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

SECTION 7.02. **Rights of Trustee.**

(a) The Trustee may conclusively rely upon any document (whether in original or facsimile form) believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in the document.

(b) Before the Trustee acts or refrains from acting, it may require an Officers' Certificate or an Opinion of Counsel or both. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such Officers' Certificate or Opinion of Counsel. The Trustee may consult with counsel of its selection and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any agent appointed with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith which it believes to be authorized or within its rights or powers conferred upon it by this Indenture.

(e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Issuer shall be sufficient if signed by an Officer of the Issuer.

(f) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders unless such Holders shall have offered to the Trustee security or indemnity reasonably satisfactory to it against the costs, expenses and liabilities that might be incurred by it in compliance with such request or direction.

(g) Except with respect to Section 4.01 hereof, the Trustee shall have no duty to inquire as to the performance of the Issuer's covenants in Article 4. In addition, the Trustee shall not be deemed to have knowledge of any Default or Event of Default except (i) any Event of Default occurring pursuant to Sections 4.01(a), 6.01(a) and 6.01(b) hereof or (ii) any Default or Event of Default of which the Trustee shall have received written notification or obtained actual knowledge.

(h) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder;

(i) The Trustee may request that the Issuer deliver a certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture; and

(j) In no event shall the Trustee be responsible or liable for special, indirect, or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

**SECTION 7.03. *Individual Rights of Trustee.***

The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Issuer or any Affiliate of the Issuer with the same rights it would have if it were not Trustee. However, in the event that the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days, apply to the Commission for permission to continue as Trustee (if any of the Notes are registered pursuant to the Securities Act), or resign. Any Agent may do the same with like rights and duties. The Trustee is also subject to Sections 7.10 and 7.11 hereof.

**SECTION 7.04. *Trustee's Disclaimer.***

(a) The Trustee shall not be responsible for and makes no representation as to the validity or adequacy hereof or the Notes, it shall not be accountable for the Issuer's use of the proceeds from the Notes or any money paid to the Issuer or upon the Issuer's direction under any provision hereof, it shall not be responsible for the use or application of any money received

by any Paying Agent other than the Trustee, and it shall not be responsible for any statement or recital herein or any statement in the Notes or any other document in connection with the sale of the Notes or pursuant to this Indenture other than its certificate of authentication.

(b) The Trustee shall not be bound to make any investigation into facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture or other paper or document.

**SECTION 7.05. *Notice of Defaults.***

If a Default or Event of Default occurs and is continuing and if it is known to a Responsible Officer of the Trustee, the Trustee shall mail to Holders of Notes a notice of the Default or Event of Default within 90 days after it occurs. Except in the case of a Default or Event of Default in payment of principal of, premium, if any, or interest on any Note, the Trustee may withhold the notice if and so long as a committee of its Responsible Officers in good faith determines that withholding the notice is in the interests of the Holders of the Notes.

**SECTION 7.06. *Reports by Trustee to Holders of the Notes.***

Within 60 days after each May 15 beginning with May 15, 2009, the Trustee shall mail to the Holders of the Notes a brief report dated as of such reporting date that complies with TIA § 313(a) (but if no event described in TIA § 313(a) has occurred within the twelve months preceding the reporting date, no report need be transmitted). The Trustee also shall comply with TIA § 313(b). The Trustee shall also transmit by mail all reports as required by TIA § 313(c).

A copy of each report at the time of its mailing to the Holders of Notes shall be mailed to the Issuer and filed with the Commission and each stock exchange on which any Notes are listed. The Issuer shall promptly notify the Trustee in writing when any Notes are listed on any stock exchange or any delisting thereof.

**SECTION 7.07. *Compensation and Indemnity.***

The Issuer shall pay to the Trustee from time to time reasonable compensation for its acceptance hereof and services hereunder. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Issuer shall reimburse the Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

The Issuer shall indemnify the Trustee against any and all losses, liabilities, claims, damages or expenses incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, except any such loss, liability or expense as

shall be determined to have been caused by the negligence or willful misconduct of the Trustee. The Trustee shall notify the Issuer promptly of any claim of which a Responsible Officer has received written notice for which it may seek indemnity. Failure by the Trustee to so notify the Issuer shall not relieve the Issuer of its obligations hereunder. The Issuer shall defend the claim and the Trustee shall cooperate in the defense. The Trustee may have separate counsel and the Issuer shall pay the reasonable fees and expenses of such counsel. The Issuer need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld.

The obligations of the Issuer under this Section 7.07 shall survive the satisfaction and discharge hereof.

To secure the Issuer's payment obligations in this Section 7.07, the Trustee shall have a Lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal and interest on particular Notes. Such Lien shall survive the satisfaction and discharge hereof.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.01(j) or (k) hereof occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

**SECTION 7.08. Replacement of Trustee.**

A resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 7.08.

The Trustee may resign in writing at any time and be discharged from the trust hereby created by so notifying the Issuer. The Holders of at least a majority in principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee and the Issuer in writing. The Issuer may remove the Trustee if:

- (a) the Trustee fails to comply with Section 7.10 hereof;
- (b) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;
- (c) a custodian or public officer takes charge of the Trustee or its property; or
- (d) the Trustee becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Issuer shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in principal amount of the then outstanding

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Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Issuer.

If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Issuer, or the Holders of Notes of at least 10% in principal amount of the then outstanding Notes may petition at the expense of the Issuer any court of competent jurisdiction for the appointment of a successor Trustee.

If the Trustee after written request by any Holder of a Note who has been a Holder of a Note for at least six months fails to comply with Section 7.10 hereof, such Holder of a Note may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Issuer. Thereupon, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to Holders of the Notes. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, *provided* all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 7.07 hereof. Notwithstanding replacement of the Trustee pursuant to this Section 7.08, the Issuer's obligations under Section 7.07 hereof shall continue for the benefit of the retiring Trustee.

If a Trustee is removed without cause, all fees and expenses of the Trustee incurred in the administration of the trust or in the performance of the duties hereunder shall be paid to the Trustee.

**SECTION 7.09. Successor Trustee by Merger, Etc.**

If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act shall be the successor Trustee.

**SECTION 7.10. Eligibility; Disqualification.**

There shall at all times be a Trustee hereunder which shall be a corporation organized and doing business under the laws of the United States of America or of any state thereof authorized under such laws to exercise corporate trustee power, shall be subject to supervision or examination by federal or state authority and shall have a combined capital and surplus of at least \$25 million as set forth in its most recent published annual report of condition.

This Indenture shall always have a Trustee who satisfies the requirements of TIA § 310(a)(1), (2) and (5). The Trustee is subject to TIA § 310(b).

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**SECTION 7.11. Preferential Collection of Claims Against the Issuer.**

The Trustee is subject to TIA § 311(a), excluding any creditor relationship listed in TIA § 311(b). A Trustee who has resigned or been removed shall be subject to TIA § 311(a) to the extent indicated therein.

**ARTICLE 8**

**DISCHARGE OF INDENTURE; DEFEASANCE**

**SECTION 8.01. Termination of the Issuer's Obligations.**

- (a) The Issuer may terminate its Obligations as to all outstanding Notes, except those obligations referred to in paragraph (b) of this Section 8.01, when
  - (1) either
    - (A) all the Notes theretofore authenticated and delivered (except lost, stolen or destroyed Notes which have been replaced or paid and Notes for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Issuer and thereafter repaid to the Issuer or discharged from such trust) have been delivered to the Trustee for cancellation; or

(B) all Notes not theretofore delivered to the Trustee for cancellation have become due and payable or, within one year will become due and payable or subject to redemption as set forth in Section 3.07, and the Issuer has irrevocably deposited or caused to be deposited with the Trustee funds in an amount sufficient to pay and discharge the entire Indebtedness on the Notes not theretofore delivered to the Trustee for cancellation, for principal of, premium, if any, and interest on the Notes to the date of deposit together with irrevocable instructions from the Issuer directing the Trustee to apply such funds to the payment thereof at maturity or redemption, as the case may be;

(2) the Issuer has paid all other sums payable under this Indenture by the Issuer; and

(3) the Issuer has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel stating that all conditions precedent under this Indenture relating to the satisfaction and discharge hereof have been complied with; *provided, however*, that such counsel may rely, as to matters of fact, on a certificate or certificates of Officers of the Issuer.

(b) Notwithstanding paragraph (a) of this Section 8.01, the Issuer's obligations in Sections 2.03, 2.04, 2.05, 2.06, 7.07, 7.08, 8.07 and 8.08 hereof shall survive until the Notes are no longer outstanding pursuant to Section 2.08 hereof. After the Notes are no longer outstanding, the Issuer's obligations in Sections 7.07, 7.08, 8.07 and 8.08 hereof shall survive such satisfaction and discharge.

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#### SECTION 8.02. *Option To Effect Legal Defeasance or Covenant Defeasance.*

The Issuer may, at the option of its Board of Directors evidenced by a resolution set forth in an Officers' Certificate, at any time, with respect to the Notes, elect to have either Section 8.03 or 8.04 hereof applied to all outstanding Notes upon compliance with the conditions set forth below in this Article 8.

#### SECTION 8.03. *Legal Defeasance and Covenant Discharge.*

Upon the Issuer's exercise under Section 8.02 hereof of the option applicable to this Section 8.03, the Issuer shall be deemed to have been discharged from their obligations with respect to all outstanding Notes on the date the conditions set forth below are satisfied (hereinafter, "*Legal Defeasance*"). For this purpose, such Legal Defeasance means that the Issuer shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes, which shall thereafter be deemed to be "outstanding" only for the purposes of Section 8.06 hereof and the other Sections hereof referred to in clauses (a) and (b) below, and to have satisfied all its other obligations under such Notes and this Indenture (and the Trustee, on demand of and at the expense of the Issuer, shall execute proper instruments acknowledging the same), except for the following, which shall survive until otherwise terminated or discharged hereunder: (a) the rights of Holders of outstanding Notes to receive payments in respect of the principal of, premium, if any, and interest on the Notes when such payments are due, or on the redemption date, as the case may be; (b) the Issuer's obligations with respect to such Notes under Sections 2.05, 2.07, 2.08, 2.10, 2.11 and 4.02 hereof; (c) the rights, powers, trust, duties and immunities of the Trustee hereunder, and the Issuer's obligations in connection therewith; and (d) this Section 8.03. Subject to compliance with this Article 8, the Issuer may exercise its option under this Section 8.03 notwithstanding the prior exercise of its option under Section 8.04 hereof with respect to the Notes.

#### SECTION 8.04. *Covenant Defeasance.*

Upon the Issuer's exercise under Section 8.02 hereof of the option applicable to this Section 8.04, the Issuer shall be released from its obligations under the covenants contained in Sections 3.08, 4.03, 4.04, 4.05, 4.07, 4.08, 4.09, 4.10, 4.11, 4.12, 4.13, 4.14 (other than existence of the Issuer (subject to Section 5.01)), 4.15, 5.01 (except clauses (a) and (b) and 10.03 hereof with respect to the outstanding Notes on and after the date the conditions set forth below are satisfied (hereinafter, "*Covenant Defeasance*"), and the Notes shall thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Notes shall not be deemed outstanding for GAAP). For this purpose, such Covenant Defeasance means that, with respect to the outstanding Notes, the Issuer may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute

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a Default or an Event of Default under Section 6.01(c) hereof, but, except as specified above, the remainder hereof and such Notes shall be unaffected thereby. In addition, upon the Issuer's exercise under Section 8.02 hereof of the option applicable to this Section 8.04, Sections 6.01(c) through 6.01(h) shall not constitute Events of Default.

#### SECTION 8.05. *Conditions to Legal or Covenant Defeasance.*

The following shall be the conditions to the application of either Section 8.03 or Section 8.04 hereof to the outstanding Notes:

- i. the Issuer shall irrevocably have deposited with the Trustee, in trust, for the benefit of the Holders of the Notes, cash in U.S. dollars, noncallable U.S. government obligations, or a combination thereof, in such amounts as will be sufficient, in the opinion of a nationally recognized firm of independent public accountants selected by the Trustee, to pay the principal of, premium, if any, and interest on the outstanding Notes on the stated maturity or on the applicable optional redemption date, as the case may be;
- ii. in the case of an election under Section 8.03 hereof, the Issuer shall have delivered to the Trustee an Opinion of Counsel in the United States reasonably acceptable to the Trustee confirming that (A) the Issuer has received from, or there has been published by, the Internal Revenue Service a ruling or (ii) since the Issue Date, there has been a change in the applicable federal income tax law, in each case to the effect that, and based thereon such Opinion of Counsel shall confirm that, the Holders of the Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance, and will be subject to federal income tax in the same amount, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;
- iii. in the case of an election under Section 8.04, the Issuer shall have delivered to the Trustee an Opinion of Counsel reasonably acceptable to such Trustee confirming that the holders of the Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;
- iv. no Default or Event of Default shall have occurred and be continuing on the date of such deposit;
- v. such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under, this Indenture or any other material agreement or instrument to which the Issuer or any of its Subsidiaries is a party or by which the Issuer or any of its Subsidiaries is bound;
- vi. the Issuer shall have delivered to the Trustee an Officers' Certificate stating that the deposit made by the Issuer pursuant to its election under Section 8.03 and 8.04 hereof was not made by the Issuer with the intent of preferring the Holders of the Notes over

any of its other creditors or with the intent of defeating, hindering, delaying or defrauding any of its other creditors or others; and

- vii. the Issuer shall have delivered to the Trustee an Officers' Certificate stating that all conditions precedent provided for or relating to the Legal Defeasance under Section 8.03 hereof or the Covenant Defeasance under Section 8.04 hereof (as the case may be) have been complied with as contemplated by this Section 8.05.

**SECTION 8.06. Deposited Money and Government Securities To Be Held in Trust; Other Miscellaneous Provisions.**

Subject to Section 8.07 hereof, all money and Government Securities (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 8.06, the "Trustee") pursuant to Section 8.05 hereof in respect of the outstanding Notes shall be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Issuer acting as Paying Agent) as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, premium, if any, and interest, but such money need not be segregated from other funds except to the extent required by law.

The Issuer shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or Government Securities deposited pursuant to Section 8.05 hereof or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding Notes.

Anything in this Article 8 to the contrary notwithstanding, the Trustee shall deliver or pay to the Issuer from time to time upon the request of the Issuer any money or Government Securities held by it as provided in Section 8.05 hereof which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 8.05(a) hereof), are in excess of the amount thereof which would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

**SECTION 8.07. Repayment to the Issuer.**

Any money deposited with the Trustee or any Paying Agent, or then held by the Issuer, in trust for the payment of the principal of, premium, if any, or interest on any Note and remaining unclaimed for two years after such principal, and premium, if any, or interest has become due and payable shall be paid to the Issuer on its request or (if then held by the Issuer) shall be discharged from such trust; and the Holder of such Note shall thereafter, as a general creditor, look only to the Issuer for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Issuer as trustees thereof, shall thereupon cease; *provided, however*, that the Trustee or such Paying Agent, be-

fore being required to make any such repayment, may at the expense of the Issuer cause to be published once, in The New York Times and The Wall Street Journal (national edition), notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such notification or publication, any unclaimed balance of such money then remaining will be repaid to the Issuer.

**SECTION 8.08. Reinstatement.**

If the Trustee or Paying Agent is unable to apply any United States Dollars or Government Securities in accordance with Section 8.03 or 8.04 hereof, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Issuer's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.03 or 8.04 hereof until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 8.03 or 8.04 hereof, as the case may be; *provided, however*, that, if the Issuer makes any payment of principal of, premium, if any, or interest on any Note following the reinstatement of its obligations, the Issuer shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE 9

AMENDMENT, SUPPLEMENT AND WAIVER

**SECTION 9.01. Without Consent of Holders of Notes.**

Notwithstanding Section 9.02 hereof, the Issuer, the Guarantors and the Trustee may amend or supplement this Indenture, the Notes and the Guarantees or any amended or supplemental indenture without the consent of any Holder of a Note:

- (a) to cure any ambiguity, defect or inconsistency;
- (b) to provide for uncertificated Notes or Guarantees in addition to or in place of certificated Notes or Guarantees *provided* that the uncertificated Notes are issued in registered form for purposes of Section 163(f) of the Code, or in a manner such that the uncertificated Notes are described in Section 163(f)(2) (B) of the Code;
- (c) to provide for the assumption of the obligations of the Issuer or any Guarantor to the Holders of the Notes in the case of a merger or consolidation or sale of all or substantially all of the Issuer's assets or such Guarantor's assets pursuant to Article 5 or Article 10 hereof;
- (d) to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights hereunder of any Holder of the Notes;

- (e) to provide for the issuance of additional Notes in accordance with the provisions set forth in this Indenture,
- (f) to evidence and provide for the acceptance of an appointment of a successor Trustee,
- (g) to add Guarantees with respect to the Notes;
- (h) to conform this Indenture or the Notes to the "Description of Notes" section in the Offering Memorandum; or

- (i) to comply with requirements of the Commission in order to effect or maintain the qualification hereof under the TIA.

The Issuer's obligations in respect of Change of Control Offer can be modified with the consent of the holders of a majority in aggregate principal amount of the Notes then outstanding at any time prior to the occurrence of a Change of Control. The consent of the noteholders is not necessary under this Indenture to approve the particular form of any proposed amendment. It is sufficient if such consent approves the substance of the proposed amendment.

Upon the request of the Issuer accompanied by a resolution of the Board of Directors of the Issuer and a resolution of the Board of Directors of each Guarantor and upon receipt by the Trustee of the documents described in Section 11.04 hereof, the Trustee shall join with the Issuer and the Guarantors in the execution of any amended or supplemental indenture authorized or permitted by the terms hereof and shall make any further appropriate agreements and stipulations which may be therein contained, but the Trustee shall not be obligated to enter into such amended or supplemental indenture which affects its own rights, duties or immunities under this Indenture or otherwise.

**SECTION 9.02. *With Consent of Holders of Notes.***

The Issuer, the Guarantors and the Trustee may amend or supplement this Indenture, the Notes or the Guarantees or any amended or supplemental indenture with the written consent of the Holders of at least a majority of the aggregate principal amount of Notes then outstanding (including consents obtained in connection with a tender offer or exchange offer for the Notes), and any existing Default and its consequences or compliance with any provision hereof or the Notes may be waived with the consent of the Holders of a majority of the aggregate principal amount of Notes then outstanding (including consents obtained in connection with a tender offer or exchange offer for the Notes). Notwithstanding the foregoing, without the consent of each Holder affected, an amendment or waiver may not (with respect to any Notes held by a non-consenting Holder):

- (a) reduce the aggregate principal amount of Notes whose Holders must consent to an amendment, supplement or waiver;

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(b) reduce the principal of or change the fixed maturity of any Note or alter the provisions with respect to the redemption of the Notes (other than as provided in clause (i) below);

(c) reduce the rate of or change the time for payment of interest on any Note;

(d) waive a Default or Event of Default in the payment of principal of or premium, if any, or interest on the Notes (except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the then outstanding Notes and a waiver of the payment default that resulted from such acceleration);

(e) make any Note payable in money other than that stated in the Notes;

(f) make any change in the provisions hereof relating to waivers of past Defaults or the rights of Holders of Notes to receive payments of principal of or interest on the Notes;

(g) make any change to the provisions of this Indenture providing for the Special Mandatory Redemption that would adversely affect the rights of any of the Holders of the Notes to receive the Special Mandatory Redemption Amount,

(h) waive a redemption payment or mandatory redemption with respect to any Note (other than as provided in clause (i) below);

(i) amend, change or modify in any material respect the obligation of the Issuer to make and consummate a Change of Control Offer in the event of a Change of Control after such Change of Control has occurred;

(j) release all or substantially all of the Guarantees or the Guarantors other than in accordance with Section 10.05 below; or

(k) make any change in the foregoing amendment and waiver provisions.

Upon the request of the Issuer accompanied by a resolution of the Board of Directors of the Issuer and a resolution of the Board of Directors of each Guarantor, and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders of Notes as aforesaid, and upon receipt by the Trustee of the documents described in Section 11.04 hereof, the Trustee shall join with the Issuer and the Guarantors in the execution of such amended or supplemental indenture unless such amended or supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such amended or supplemental indenture.

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It shall not be necessary for the consent of the Holders of Notes under this Section 9.02 to approve the particular form of any proposed amendment or waiver, but it shall be sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this Section 9.02 becomes effective, the Issuer shall mail to the Holders of Notes affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Issuer to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amended or supplemental indenture or waiver. Subject to Sections 6.04 and 6.07 hereof, the Holders of a majority in aggregate principal amount of the Notes then outstanding may waive compliance in a particular instance by the Issuer with any provision of this Indenture or of the Notes.

**SECTION 9.03. *Compliance with Trust Indenture Act.***

Every amendment or supplement to this Indenture and the Notes shall be set forth in an amended or supplemental indenture that complies with the TIA as then in effect.

**SECTION 9.04. *Revocation and Effect of Consents.***

Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Note is a continuing consent by the Holder of a Note and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder of a Note or subsequent Holder of a Note may revoke the consent as to its Note if the Trustee receives written notice of revocation before the date the waiver, supplement or amendment becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder of a Note.

The Issuer may fix a record date for determining which Holders of the Notes must consent to such amendment, supplement or waiver. If the Issuer fixes a record



date, the record date shall be fixed at (i) the later of 30 days prior to the first solicitation of such consent or the date of the most recent list of Holders of Notes furnished to the Trustee prior to such solicitation pursuant to Section 2.05 hereof or (ii) such other date as the Issuer shall designate.

**SECTION 9.05. Notation on or Exchange of Notes.**

The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Issuer in exchange for all Notes may issue and the Trustee shall authenticate new Notes that reflect the amendment, supplement or waiver.

Failure to make the appropriate notation or issue a new Note shall not affect the validity and effect of such amendment, supplement or waiver.

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**SECTION 9.06. Trustee To Sign Amendments, Etc.**

In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article or the modification thereby of the trusts created by this Indenture, the Trustee shall receive, and shall be fully protected in relying upon, an Opinion of Counsel and an Officers' Certificate stating that the execution of such supplemental indenture is authorized or permitted by this Indenture. The Trustee may, but shall not be obligated to, enter into any such supplemental indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

ARTICLE 10

GUARANTEES

**SECTION 10.01. Guarantee.**

Each of the Guarantors, jointly and severally, hereby unconditionally guarantees to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes or the Obligations of the Issuer hereunder or thereunder, that

- (a) the principal of, premium, if any, and interest on the Notes will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the Notes, if any, if lawful, and all other Obligations of the Issuer to the Holders or the Trustee hereunder or thereunder will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and
- (b) in case of any extension of time of payment or renewal of any Notes or any of such other Obligations, that the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, each of the Guarantors, jointly and severally, will be obligated to pay the same immediately.

Each of the Guarantors, jointly and severally, hereby agrees that its obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of a Note with respect to any provisions hereof or thereof, the recovery of any judgment against the Issuer, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor.

Each of the Guarantors, jointly and severally, hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Issuer, any right to require a proceeding first against the Issuer, protest, notice and all demands whatsoever and covenants that this Guarantee will not be discharged except by complete performance of the Obligations guaranteed hereby. If any Holder or the Trustee is

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required by any court or otherwise, or any custodian, Trustee, liquidator or other similar official acting in relation to either the Issuer or any Guarantor, to return to the Issuer or any Guarantor any amount paid by either to the Trustee or such Holder, this Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect.

Each of the Guarantors, jointly and severally, agrees that it shall not be entitled to any right of subrogation in relation to the Holders in respect of any Obligations guaranteed hereby until payment in full of all Obligations guaranteed hereby. Each of the Guarantors, jointly and severally, further agrees that, as between such Guarantor, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the Obligations guaranteed hereby may be accelerated as provided in Article 6 for the purposes of this Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such Obligations as provided in Article 6, such Obligations (whether or not due and payable) shall forthwith become due and payable by each Guarantor for the purpose of this Guarantee. Notwithstanding the foregoing, in the event that any Guarantee would constitute or result in a violation of any applicable fraudulent conveyance or similar law of any relevant jurisdiction, the liability of the applicable Guarantor under its Guarantee shall be reduced to the maximum amount permissible under such fraudulent conveyance or similar law.

The Guarantors hereby agree as among themselves that each Guarantor that makes a payment or distribution under a Guarantee shall be entitled to *pro rata* contribution from each other Guarantor hereunder based on the net assets of each other Guarantor. The preceding sentence shall in no way affect the rights of the Holders of Notes to the benefits hereof, the Notes or the Guarantees.

Nothing in this Section 10.01 shall apply to claims of, or payments to, the Trustee under or pursuant to the provisions of Section 7.07 hereof. Nothing contained in this Section 10.01 or elsewhere in this Indenture, the Notes or the Guarantees shall impair, as between any Guarantor and the Holder of any Note, the obligation of such Guarantor, which is unconditional and absolute, to pay to the Holder thereof the principal of, premium, if any, and interest on such Note in accordance with its terms and the terms of the Guarantee and this Indenture, nor shall anything herein or therein prevent the Trustee or the Holder of any Note from exercising all remedies otherwise permitted by applicable law or hereunder or thereunder upon the occurrence of an Event of Default.

**SECTION 10.02. Execution and Delivery of Guarantees.**

To evidence its Guarantee set forth in Section 10.01 hereof, each Guarantor hereby agrees that a notation of such Guarantee substantially in the form of Exhibit B hereto shall be endorsed by an officer of such Guarantor on each Note authenticated and delivered by the Trustee and that this Indenture shall be executed on behalf of such Guarantor by any of its Officers. Each of the Guarantors, jointly and severally, hereby agrees that its Guarantee set forth in Section 10.01 hereof shall remain in full force and effect notwithstanding any failure to endorse on each Note a notation of such Guarantee. If an officer or Officer whose signature is

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on this Indenture or on the Guarantee of a Guarantor no longer holds that office at the time the Trustee authenticates the Note on which the Guarantee of such Guarantor is endorsed, the Guarantee of such Guarantor shall be valid nevertheless. The delivery of any Note by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of the Guarantees set forth in this Indenture on behalf of the Guarantors.

**SECTION 10.03. Merger, Consolidation or Sale of Assets of Guarantors.**

Subject to Section 10.05 hereof, a Guarantor may not, and the Issuer will not cause or permit any Guarantor to, consolidate or merge with or into (whether or not such Guarantor is the surviving entity) another Person other than the Issuer or another Guarantor (in each case other than in accordance with Section 4.10) unless:

- (a) such Guarantor is the surviving Person or the Person formed by or surviving any such consolidation or merger (if other than such Guarantor) is a corporation, limited partnership or limited liability company organized or existing under the laws of the United States, any state thereof or the District of Columbia;
- (b) the Person formed by or surviving any such consolidation or merger (if other than such Guarantor) assumes all the obligations of such Guarantor, pursuant to a supplemental indenture in form reasonably satisfactory to the Trustee, under the Notes and this Indenture; and
- (c) immediately after such transaction, no Default or Event of Default exists.

Nothing contained in this Indenture shall prevent any consolidation or merger of a Guarantor with or into the Issuer or another Guarantor that is a wholly owned Restricted Subsidiary of the Issuer or shall prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Issuer or another Guarantor that is a wholly owned Restricted Subsidiary of the Issuer. Except as set forth in Articles 4 and 5 hereof, nothing contained in this Indenture shall prevent any consolidation or merger of a Guarantor with or into the Issuer or another Guarantor that is a Restricted Subsidiary of the Issuer or shall prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Issuer or another Guarantor that is a Restricted Subsidiary of the Issuer.

**SECTION 10.04. Successor Corporation Substituted.**

Upon any consolidation, merger, sale or conveyance described in paragraphs (a) through (c) of Section 10.03 hereof, and upon the assumption by the successor Person, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of any Guarantee previously signed by the Guarantor and the due and punctual performance of all of the covenants and conditions hereof to be performed by the Guarantor, such successor Person shall succeed to and be substituted for the Guarantor with the same effect as if it had been named herein as a Guarantor. Such successor Person thereupon may

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cause to be signed any or all of the Guarantees to be issuable hereunder by such Guarantor and delivered to the Trustee. All the Guarantees so issued shall in all respects have the same legal rank and benefit under this Indenture as the Guarantees theretofore and thereafter issued in accordance with the terms hereof as though all of such Guarantees had been issued at the date of the execution of such Guarantee by such Guarantor. When a successor Person assumes all the obligations of the Issuer under the Notes and the Indenture pursuant to this Article 5, the applicable predecessor shall be released from the obligations so assumed.

**SECTION 10.05. Releases from Guarantees.**

If pursuant to any direct or indirect sale of assets (including, if applicable, all of the Capital Stock of any Guarantor) or other disposition by way of merger, consolidation or otherwise, the assets sold include all or substantially all of the assets of any Guarantor or all of the Capital Stock of any such Guarantor, then such Guarantor or the Person acquiring the property (in the event of a sale or other disposition of all or substantially all of the assets of such a Guarantor) shall be released and relieved of its obligations under its Guarantee or Section 10.03 and Section 10.04 hereof, as the case may be; *provided* that in the event of an Asset Sale, the Net Proceeds from such sale or other disposition are applied in accordance with the provisions of Section 4.10 hereof. In addition, a Guarantor shall be released and relieved of its obligations under its Guarantee or Section 10.03 and Section 10.04 hereof, as the case may be if (1) such Guarantor is dissolved or liquidated in accordance with the provisions hereof; (2) the Issuer designates any such Guarantor as an Unrestricted Subsidiary in compliance with the terms hereof; or (3) the Issuer effectively discharges such Guarantor's obligations or defeases the Notes in compliance with the terms of Article 8 hereof. Upon delivery by the Issuer to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that such sale or other disposition was made by the Issuer in accordance with the provisions hereof, including without limitation Section 4.10 hereof, if applicable, the Trustee shall execute any documents pursuant to written direction of the Issuer in order to evidence the release of any such Guarantor from its obligations under its Guarantee. Any such Guarantor not released from its obligations under its Guarantee shall remain liable for the full amount of principal of and interest on the Notes and for the other obligations of such Guarantor under this Indenture as provided in this Article 10.

ARTICLE 11

MISCELLANEOUS

**SECTION 11.01. Trust Indenture Act Controls.**

If any provision hereof limits, qualifies or conflicts with the duties imposed by TIA § 318(c), the imposed duties shall control.

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**SECTION 11.02. Notices.**

Any notice or communication by the Issuer, any Guarantor or the Trustee to the others is duly given if in writing and delivered by hand-delivery, registered first-class mail, next-day air courier or facsimile:

If to the Issuer or any Guarantor, to its care of:

HSN, Inc.  
1 HSN Drive  
St. Petersburg, FL 33729  
Facsimile No.: (727) 872-6866  
Attention: General Counsel

If to the Trustee:

The Bank of New York Mellon  
101 Barclay Street

The Issuer, any Guarantor or the Trustee, by notice to the other, may designate additional or different addresses for subsequent notices or communications.

All notices and communications (other than those sent to Holders of Notes) shall be deemed to have been duly given: when delivered by hand, if personally delivered; five Business Days after being deposited in the mail, certified or registered, return receipt requested, postage prepaid, if mailed; one Business Day after being timely delivered to a next-day air courier; and when transmission is confirmed, if sent by facsimile.

Any notice or communication to a Holder of a Note shall be mailed by first class mail to its address shown on the register kept by the Registrar. Any notice or communication shall also be so mailed to any Person described in TIA § 313(c), to the extent required by the TIA. Failure to mail a notice or communication to a Holder of a Note or any defect in it shall not affect its sufficiency with respect to other Holders of Notes.

If a notice or communication is mailed in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it.

If the Issuer mails a notice or communication to Holders of Notes, it shall mail a copy to the Trustee and each Agent at the same time.

The Trustee agrees to accept and act upon facsimile and electronic mail transmission of written instructions and/or directions pursuant to this Indenture given by the Issuer; *provided, however* that: (i) the Issuer, subsequent to such facsimile or electronic mail transmission of written instructions and/or directions shall provide the originally executed instructions

and/or directions to the Trustee in a timely manner and (ii) such originally executed instructions and/or directions shall be signed by an authorized "Officer" of the Issuer.

**SECTION 11.03. *Communication by Holders of Notes with Other Holders of Notes.***

Holders of the Notes may communicate pursuant to TIA § 312(b) with other Holders of Notes with respect to their rights under this Indenture or the Notes. The Issuer, the Trustee, the Registrar and anyone else shall have the protection of TIA § 312(c).

**SECTION 11.04. *Certificate and Opinion as to Conditions Precedent.***

Upon any request or application by the Issuer to the Trustee to take any action under this Indenture (except in connection with the original issuance of the Notes), the Issuer shall furnish to the Trustee:

- (a) an Officers' Certificate in form and substance reasonably satisfactory to the Trustee stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied; and
- (b) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied.

**SECTION 11.05. *Statements Required in Certificate or Opinion.***

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than a certificate provided pursuant to TIA § 314(a)(4), if applicable) shall include:

- (a) a statement that the Person making such certificate or opinion has read such covenant or condition;
- (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;
- (c) a statement that, in the opinion of such Person, he or she has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been satisfied; and
- (d) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been satisfied.

**SECTION 11.06. *Rules by Trustee and Agents.***

The Trustee may make reasonable rules for action by or at a meeting of Holders of Notes. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

**SECTION 11.07. *No Personal Liability of Directors, Owners, Employees, Incorporators and Stockholders.***

No director, owner, officer, employee, incorporator or stockholder of the Issuer, the Guarantors or any of their Affiliates, as such, shall have any liability for any obligations of the Issuer, the Guarantors or any of their Affiliates under the Notes, the Guarantees or this Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of the Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

**SECTION 11.08. *Governing Law.***

**THE INTERNAL LAW OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THIS INDENTURE, THE NOTES AND THE GUARANTEES WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.**

**SECTION 11.09. *No Adverse Interpretation of Other Agreements.***

This Indenture may not be used to interpret another indenture, loan or debt agreement of the Issuer or any of its respective Subsidiaries. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

SECTION 11.10. *Successors.*

All agreements of the Issuer and the Guarantors in this Indenture and the Notes and the Guarantees shall bind the successors of the Issuer and the Guarantors, respectively. All agreements of the Trustee in this Indenture shall bind its successor.

SECTION 11.11. *Severability.*

In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

SECTION 11.12. *Counterpart Originals.*

The parties may sign any number of copies hereof. Each signed copy shall be an original, but all of them together represent the same agreement.

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SECTION 11.13. *Table of Contents, Headings, Etc.*

The Table of Contents, Cross-Reference Table and headings of the Articles and Sections hereof have been inserted for convenience of reference only, are not to be considered a part hereof and shall in no way modify or restrict any of the terms or provisions hereof.

SECTION 11.14. *Force Majeure.*

In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software or hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

SECTION 11.15. *Waiver of Jury Trial.*

EACH OF THE ISSUER AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED HEREBY.

[Signatures on following page]

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IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as of the day and year first above written.

HSN, INC.,  
as the Issuer

By: /s/ Gregory R. Blatt  
Name: Gregory R. Blatt  
Title: Vice President and Assistant  
Secretary

THE BANK OF NEW YORK MELLON,  
as Trustee

By: /s/ Sherma Thomas  
Name: Sherma Thomas  
Title: Assistant Treasurer

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## Subsidiaries of HSN, Inc.(1)

Name	Jurisdiction of Organization
AST LLC	DE
AST Sub, Inc.	DE
Ballard Designs, Inc.	GA
CINMAR, INC.	OH
Cinmar, L.P.	DE
Cornerstone Brands, Inc.	DE
Cornerstone Consolidated Services Group, Inc.	DE
Cornerstone Real Estate Company I, LLC	DE
Exception Management Services LP	DE
Garnet Hill, Inc.	NH
H.O.T. Networks Holdings (Delaware) LLC	DE
Home Shopping Network En Espanol, L.P.	DE
Home Shopping Network En Espanol, L.L.C.	DE
HSN Catalog Services, Inc.	DE
HSN Direct LLC	DE
HSN Fulfillment LLC	DE
HSN Improvements, LLC	DE
HSN Interactive LLC	DE
HSN LP	DE
HSN of Nevada LLC	DE
HSN Realty LLC	DE
HSNAutomatic LLC	DE

(1) As of the effective date of IAC/InterActiveCorp's pending spin-off of the Registrant described in the Registration Statement.

Name	Jurisdiction of Organization
Ingenious Designs LLC	DE
Shopblinds.com, Inc.	DE
Short Shopping LLC	DE
Smith & Noble, LLC	DE
The Cornerstone Brands Group, Inc.	DE
The Cornerstone Holdings Group, Inc.	DE
THE TERRITORY AHEAD, INC.	DE
TravelSmith Outfitters, Inc.	CA
United Independent Inc.	DE
New HoldCo (an entity to be formed in conjunction with the Transactions)	DE
Home Shopping Espanol Servicios (Mexico) S. De. R.L. De. CV	Mexico
Home Shopping Espanol (Mexico) S. De. R.L. De. CV	Mexico
HSN UK Holdings Ltd.	United Kingdom
IBUY TV Limited	United Kingdom
Quiz TV Limited	United Kingdom
H.O.T. Home Order Televisioni Belgium S.A. (also known as H.O.T. Belgium S.A.)	Belgium
Home Shopping Europe en Francais S.A.	Belgium
Home Shopping Europe en het Nederlands N.V.	Dutch
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**Exhibit 23.1**

**Consent of Independent Registered Public Accounting Firm**

We consent to the reference to our firm under the caption "Experts" and to the use of our report dated May 5, 2008 in the Registration Statement (Form S-1 No. 333-00000) and related Prospectus of HSN, Inc. dated August 1, 2008.

/s/ Ernst & Young LLP

New York, New York  
July 31, 2008

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QuickLinks

[Exhibit 23.1](#)

[Consent of Independent Registered Public Accounting Firm](#)

**CONSENT TO BEING NAMED AS A PROSPECTIVE DIRECTOR**

As required by Rule 438 under the Securities Act of 1933, as amended, I hereby consent to the reference to my name as a prospective director of HSN, Inc. (the "Registrant") in the section entitled "Management of HSNi" in the prospectus forming a part of a registration statement on Form S-1 to be filed by the Registrant with the U.S. Securities and Exchange Commission, as amended from time to time.

/s/Mindy Grossman

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Consent to Being Named a Prospective Director\*

By signing this Directors' Questionnaire, I hereby consent to being named as a nominee for director in any related materials filed by HSN, Inc. or IAC with the SEC and to serving as a director, if elected.

/s/Michael C. Boyd

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\* Excerpted from Director Questionnaire

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Consent to Being Named a Prospective Director\*

By signing this Directors' Questionnaire, I hereby consent to being named as a nominee for director in any related materials filed by HSN, Inc. or IAC with the SEC and to serving as a director, if elected.

/s/Patrick Bousquet-Chavanne

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\* Excerpted from Director Questionnaire

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Consent to Being Named a Prospective Director\*

By signing this Directors' Questionnaire, I hereby consent to being named as a nominee for director in any related materials filed by HSN, Inc. or IAC with the SEC and to serving as a director, if elected.

/s/William Costello

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\* Excerpted from Director Questionnaire

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Consent to Being Named a Prospective Director\*

By signing this Directors' Questionnaire, I hereby consent to being named as a nominee for director in any related materials filed by HSN, Inc. or IAC with the SEC and to serving as a director, if elected.

/s/James Follo

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\* Excerpted from Director Questionnaire

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Consent to Being Named a Prospective Director\*

By signing this Directors' Questionnaire, I hereby consent to being named as a nominee for director in any related materials filed by HSN, Inc. or IAC with the SEC and to serving as a director, if elected.

/s/Stephanie Kugelman

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\* Excerpted from Director Questionnaire

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**CONSENT TO BEING NAMED AS A PROSPECTIVE DIRECTOR**

As required by Rule 438 under the Securities Act of 1933, as amended, I hereby consent to the reference to my name as a prospective director of HSN, Inc. (the "Registrant") in the section entitled "Management of HSNi" in the prospectus forming a part of a registration statement on Form S-1 to be filed by the Registrant with the U.S. Securities and Exchange Commission, as amended from time to time.

/s/Arthur C. Martinez

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Dear IAC/InterActiveCorp Stockholder:

I am pleased to inform you that on July 1, 2008, the Board of Directors of IAC/InterActiveCorp approved the spin-offs of HSN, Inc., Interval Leisure Group, Inc., Ticketmaster and Tree.com, Inc. (each, a "Spinco" and collectively, the "Spinco's") via the distribution of all of the outstanding shares of common stock of each Spinco to IAC's stockholders. As a result of the spin-offs, IAC will be separated into five separate, publicly traded companies.

At the time of the spin-offs, the Spinco's will collectively hold all of the assets and liabilities associated with IAC's Retailing, Interval, Ticketmaster, Lending and Real Estate segments. We believe that the separation of these businesses will over time enhance their operating performance, provide each of them with a liquid equity currency linked directly to its businesses, open up strategic alternatives that may otherwise not have been readily available to them and facilitate investor understanding and better target investor demand. We expect the spin-offs of each of the Spinco's to occur simultaneously, unless otherwise determined by IAC's Board of Directors. Immediately after each spin-off, IAC stockholders will own 100% of the common stock of the company being distributed.

The spin-offs of each of the Spinco's will occur on [       ] by way of a pro rata dividend to IAC stockholders, unless otherwise determined by IAC's board of directors. Each IAC stockholder will be entitled to receive one-fifth of a share of common stock of HSN, Inc., one-fifth of a share of common stock of Interval Leisure Group, Inc., one-fifth of a share of common stock of Ticketmaster and one-thirtieth of a share of common stock of Tree.com, Inc. for every share of IAC common stock and/or Class B common stock held by such stockholder at the close of business on [ • ], 2008, the record date for the spin-offs. IAC will not distribute any fractional shares of common stock of the Spinco's to its stockholders, as more fully described in the accompanying prospectus. Stockholder approval of the spin-offs is not required, nor are you required to take any action to receive your shares of common stock of the Spinco's.

The enclosed prospectus, which is being mailed to all IAC stockholders, describes the spin-offs of the common stock of each of the Spinco's in detail and contains important information about each of the Spinco's. We urge you to read this prospectus carefully.

I want to thank you for your continued support of IAC, and each of the Spinco's looks forward to your support in the future.

Sincerely,

Barry Diller  
*Chairman of the Board and Chief Executive Officer*

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**HSN, Inc. and Subsidiaries**  
**Combined Statements of Operations**  
**Year Ended December 31, 2007**

	(In thousands)			
	Quarter Ended March 31 (unaudited)	Quarter Ended June 30 (unaudited)	Quarter Ended September 30 (unaudited)	Quarter Ended December 31 (unaudited)
Revenue	\$ 666,705	\$ 681,506	\$ 680,763	\$ 879,268
Cost of sales (exclusive of depreciation shown separately below)	418,706	421,474	424,468	555,400
Gross margin	247,999	260,032	256,295	323,868
Selling and marketing expense	136,453	153,556	139,066	166,836
General and administrative expense	53,966	51,074	52,222	54,693
Production and programming expense	14,880	13,867	13,630	16,674
Amortization of non-cash marketing	—	450	3,992	—
Amortization of intangibles	4,085	2,701	2,197	3,698
Depreciation	8,468	8,621	8,760	8,514
Operating income	30,147	29,763	36,428	73,453
Other income (expense):				
Interest income	69	120	36	27
Other expense	(108)	(148)	—	—
Total other (expense) income, net	(39)	(28)	36	27
Earnings from continuing operations before income taxes	30,108	29,735	36,464	73,480
Income tax provision	(11,456)	(11,315)	(13,874)	(27,909)
<b>Earnings from continuing operations</b>	<b>18,652</b>	<b>18,420</b>	<b>22,590</b>	<b>45,571</b>
Gain (loss) on sale of discontinued operations, net of tax	—	34,795	(4,223)	—
(Loss) income from discontinued operations, net of tax	(1,566)	21,391	(1,711)	10,885
<b>Net income</b>	<b>\$ 17,086</b>	<b>\$ 74,606</b>	<b>\$ 16,656</b>	<b>\$ 56,456</b>
Non-cash compensation expense is included in the following line items in the combined statements of operations:				
Cost of sales	\$ 231	\$ 249	\$ 190	\$ 267
Selling and marketing expense	253	272	209	291
General and administrative expense	2,549	2,698	2,073	2,869
Production and programming expense	2	2	3	2
Total non-cash compensation expense	\$ 3,035	\$ 3,221	\$ 2,475	\$ 3,429

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**HSN, Inc. and Subsidiaries**  
**Combined Statements of Operations (Continued)**  
**Year Ended December 31, 2007**

	(In thousands)			
	Quarter Ended March 31 (unaudited)	Six Months Ended June 30 (unaudited)	Nine Months Ended September 30 (unaudited)	Year Ended December 31 (audited)
Revenue	\$ 666,705	\$ 1,348,211	\$ 2,028,974	\$ 2,908,242
Cost of sales (exclusive of depreciation shown separately below)	418,706	840,180	1,264,648	1,820,048
Gross margin	247,999	508,031	764,326	1,088,194
Selling and marketing expense	136,453	290,009	429,075	595,911
General and administrative expense	53,966	105,040	157,262	211,955
Production and programming expense	14,880	28,747	42,377	59,051
Amortization of non-cash marketing	—	450	4,442	4,442
Amortization of intangibles	4,085	6,786	8,983	12,681
Depreciation	8,468	17,089	25,849	34,363
Operating income	30,147	59,910	96,338	169,791
Other income (expense):				
Interest income	69	189	225	252
Other expense	(108)	(256)	(256)	(256)



Total other expense, net	(39)	(67)	(31)	(4)
Earnings from continuing operations before income taxes	30,108	59,843	96,307	169,787
Income tax provision	(11,456)	(22,771)	(36,645)	(64,554)
<b>Earnings from continuing operations</b>	18,652	37,072	59,662	105,233
Gain on sale of discontinued operations, net of tax	—	34,795	30,572	30,572
(Loss) income from discontinued operations, net of tax	(1,566)	19,825	18,114	28,999
<b>Net income</b>	<u>\$ 17,086</u>	<u>\$ 91,692</u>	<u>\$ 108,348</u>	<u>\$ 164,804</u>

Non-cash compensation expense is included in the following line items in the combined statements of operations:

Cost of sales	\$ 231	\$ 480	\$ 670	\$ 937
Selling and marketing expense	253	525	734	1,025
General and administrative expense	2,549	5,247	7,320	10,189
Production and programming expense	2	4	7	9
<b>Total non-cash compensation expense</b>	<u>\$ 3,035</u>	<u>\$ 6,256</u>	<u>\$ 8,731</u>	<u>\$ 12,160</u>

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**HSN, Inc. and Subsidiaries**  
**Combined Statements of Operations**  
**Year Ended December 31, 2006**

(In thousands)

	Quarter Ended March 31 (unaudited)	Quarter Ended June 30 (unaudited)	Quarter Ended September 30 (unaudited)	Quarter Ended December 31 (unaudited)
Revenue	\$ 665,587	\$ 682,349	\$ 671,753	\$ 858,265
Cost of sales (exclusive of depreciation shown separately below)	410,741	410,870	413,563	530,029
Gross margin	254,846	271,479	258,190	328,236
Selling and marketing expense	131,771	148,890	135,761	168,575
General and administrative expense	44,222	45,192	45,936	50,911
Production and programming expense	14,547	13,971	13,783	14,499
Amortization of intangibles	15,355	8,557	5,156	5,156
Depreciation	10,281	9,816	8,830	8,346
Operating income	38,670	45,053	48,724	80,749
Other income (expense):				
Interest income	148	148	104	186
Other expense	(163)	(310)	(253)	(314)
Total other expense, net	(15)	(162)	(149)	(128)
Earnings from continuing operations before income taxes	38,655	44,891	48,575	80,621
Income tax provision	(14,392)	(16,715)	(18,086)	(30,017)
<b>Earnings from continuing operations</b>	24,263	28,176	30,489	50,604
Income (loss) from discontinued operations, net of tax	469	(7,934)	(3,963)	713
<b>Net income</b>	<u>\$ 24,732</u>	<u>\$ 20,242</u>	<u>\$ 26,526</u>	<u>\$ 51,317</u>

Non-cash compensation expense is included in the following line items in the combined statements of operations:

Cost of sales	\$ 109	\$ 302	\$ 107	\$ 237
Selling and marketing expense	410	330	117	260
General and administrative expense	2,692	3,311	1,252	2,612
Production and programming expense	—	3	1	3
<b>Total non-cash compensation expense</b>	<u>\$ 3,211</u>	<u>\$ 3,946</u>	<u>\$ 1,477</u>	<u>\$ 3,112</u>

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**HSN, Inc. and Subsidiaries**  
**Combined Statements of Operations (Continued)**  
**Year Ended December 31, 2006**  
**(In thousands)**

	Quarter Ended March 31	Six Months Ended June 30	Nine Months Ended September 30	Year Ended December 31
	(unaudited)	(unaudited)	(unaudited)	(audited)
Revenue	\$ 665,587	\$ 1,347,936	\$ 2,019,689	\$ 2,877,954
Cost of sales (exclusive of depreciation shown separately below)	410,741	821,611	1,235,174	1,765,203
Gross margin	254,846	526,325	784,515	1,112,751
Selling and marketing expense	131,771	280,661	416,422	584,997
General and administrative expense	44,222	89,414	135,350	186,261
Production and programming expense	14,547	28,518	42,301	56,800
Amortization of intangibles	15,355	23,912	29,068	34,224
Depreciation	10,281	20,097	28,927	37,273
Operating income	38,670	83,723	132,447	213,196
Other income (expense):				
Interest income	148	296	400	586
Other expense	(163)	(473)	(726)	(1,040)
Total other expense, net	(15)	(177)	(326)	(454)
Earnings from continuing operations before income taxes	38,655	83,546	132,121	212,742
Income tax provision	(14,392)	(31,107)	(49,193)	(79,210)
<b>Earnings from continuing operations</b>	24,263	52,439	82,928	133,532
Income (loss) from discontinued operations, net of tax	469	(7,465)	(11,428)	(10,715)
<b>Net income</b>	<u>\$ 24,732</u>	<u>\$ 44,974</u>	<u>\$ 71,500</u>	<u>\$ 122,817</u>
Non-cash compensation expense is included in the following line items in the combined statements of operations:				
Cost of sales	\$ 109	\$ 411	\$ 518	\$ 755
Selling and marketing expense	410	740	857	1,117
General and administrative expense	2,692	6,003	7,255	9,867
Production and programming expense	—	3	4	7
Total non-cash compensation expense	<u>\$ 3,211</u>	<u>\$ 7,157</u>	<u>\$ 8,634</u>	<u>\$ 11,746</u>